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## Senate

(Legislative day of Wednesday, December 11, 2013)

### CLOTURE MOTION

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to report the motion to invoke cloture. The assistant bill clerk read as follows:

### NOTICE

If the 113th Congress, 1st Session, adjourns sine die on or before December 24, 2013, a final issue of the *Congressional Record* for the 113th Congress, 1st Session, will be published on Tuesday, December 31, 2013, to permit Members to insert statements.

All material for insertion must be signed by the Member and delivered to the respective offices of the Official Reporters of Debates (Room HT-59 or S-123 of the Capitol), Monday through Friday, between the hours of 10:00 a.m. and 3:00 p.m. through Monday, December 30. The final issue will be dated Tuesday, December 31, 2013, and will be delivered on Thursday, January 2, 2014.

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By order of the Joint Committee on Printing.

CHARLES E. SCHUMER, *Chairman*.

### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of Chai Rachel Feldblum, of the District of Columbia, to be a Member of the Equal Employment Opportunity Commission:

Harry Reid, Sherrod Brown, Richard J. Durbin, Christopher Murphy, Robert Menendez, Christopher A. Coons, Angus S. King, Jr., Martin Heinrich, Amy Klobuchar, Dianne Feinstein, Tom Udall, Kirsten E. Gillibrand, Bernard

Sanders, Barbara Boxer, Brian Schatz, Robert P. Casey, Jr., Thomas R. Carper, Benjamin L. Cardin, Michael F. Bennet.

### QUORUM CALL

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair now asks the clerk to call the roll to ascertain the presence of a quorum.

The assistant bill clerk proceeded to call the roll and the following Senators entered the Chamber and answered to their names:

Alexander  
Ayotte  
Baldwin  
Blunt  
Barrasso  
Baucus  
Bennet  
Blumenthal  
Blunt  
Boozman  
Boxer  
Brown  
Burr  
Cantwell  
Cardin  
Coats

### [Quorum No. 5]

Collins  
Corker  
Cornyn  
Crapo  
Donnelly  
Durbin  
Enzi  
Feinstein  
Fischer  
Flake  
Gillibrand  
Grassley  
Harkin  
Heinrich  
Heitkamp  
Heller  
Hirono  
Isakson  
Johanns  
Johnson (SD)  
Johnson (WI)  
Kaine  
King  
Klobuchar  
Landrieu  
Leahy  
Lee  
Manchin  
Markey  
McCaskill

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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McConnell	Reid	Thune
Menendez	Risch	Toomey
Merkley	Roberts	Udall (CO)
Mikulski	Rockefeller	Udall (NM)
Murkowski	Sanders	Vitter
Murphy	Schumer	Warner
Murray	Scott	Warren
Nelson	Sessions	Wicker
Paul	Shelby	Wyden
Portman	Stabenow	
Reed	Tester	

The PRESIDING OFFICER. A quorum is present.

The question is, Is it the sense of the Senate that debate on the nomination of Chai Rachel Feldblum, of the District of Columbia, to be a Member of the Equal Employment Opportunity Commission shall be brought to a close? The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Georgia (Mr. CHAMBLISS), the Senator from Oklahoma (Mr. COBURN), the Senator from Illinois (Mr. KIRK), and the Senator from Kansas (Mr. MORAN).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 57, nays 39, as follows:

[Rollcall Vote No. 257 Ex.]

#### YEAS—57

Baldwin	Hagan	Murphy
Baucus	Harkin	Murray
Begich	Heinrich	Nelson
Bennet	Heitkamp	Pryor
Blumenthal	Hirono	Reed
Booker	Johnson (SD)	Reid
Boxer	Kaine	Rockefeller
Brown	King	Sanders
Cantwell	Klobuchar	Schatz
Cardin	Landrieu	Schumer
Carper	Leahy	Shaheen
Casey	Levin	Stabenow
Collins	Manchin	Tester
Coons	Markey	Udall (CO)
Donnelly	McCaskill	Udall (NM)
Durbin	Menendez	Warner
Feinstein	Merkley	Warren
Franken	Mikulski	Whitehouse
Gillibrand	Murkowski	Wyden

#### NAYS—39

Alexander	Fischer	McConnell
Ayotte	Flake	Paul
Barrasso	Graham	Portman
Blunt	Grassley	Risch
Boozman	Hatch	Roberts
Burr	Heller	Rubio
Coats	Hoeben	Scott
Cochran	Inhofe	Sessions
Corker	Isakson	Shelby
Cornyn	Johanns	Thune
Crapo	Johnson (WI)	Toomey
Cruz	Lee	Vitter
Enzi	McCain	Wicker

#### NOT VOTING—4

Chambliss	Kirk	Moran
Coburn		

The PRESIDING OFFICER. On this vote the yeas are 57, the nays 39. The motion is agreed to.

#### NOMINATION OF CHAI RACHEL FELDBLUM TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

The PRESIDING OFFICER. The clerk will report the nomination.

The assistant bill clerk read the nomination of Chai Rachel Feldblum,

of the District of Columbia, to be a Member of the Equal Employment Opportunity Commission for a term expiring July 1, 2018.

The PRESIDING OFFICER. Pursuant to the provisions of S. Res. 15 of the 113th Congress, there will now be up to 8 hours of postcloture consideration of the nomination equally divided in the usual form.

The majority leader.

Mr. REID. Madam President, it is my understanding that if I yield back 40 minutes, the vote will occur at 9 a.m. tomorrow morning.

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. I yield back 40 minutes of the Democrats' time.

The PRESIDING OFFICER. The time is so yielded.

The Senator from Arizona.

Mr. FLAKE. Madam President, I rise to address the nomination and some other issues.

I want to say a few words about nominations. The Senate just confirmed President Obama's third nominee to the DC Circuit this year, and did so without the support of a single Senator from the minority party.

I have only been in the Senate for a year, but I understand the importance of minority rights and the moderating effect that the minority has on the nominations and on legislation as a whole. Requiring the support of at least some of the minority Senators encourages both the nomination and appointment of more mainstream nominees.

I think in the case of executive nominees, it ensures the heads of executive agencies are responsible to both the minority and majority parties. Minority input reinforces the separation of powers and safeguards the ability of Congress to conduct effective oversight.

Let me give a couple examples of where I think this is important and something we have lost once the nuclear option was employed with regard to executive appointments.

Earlier this year we had the appointment of a person to head the Environmental Protection Agency. It is an extremely important agency. It is important to Arizona—particularly since Arizona has a lot of Federal, State, and public lands—where actions of the Federal Government are perhaps amplified, and so that was an extremely important appointment. I ended up voting for Gina McCarthy. I think she is a good nominee.

I understand that the President won the election, and he has the power to appoint his people and his team. Unless there are extraordinary circumstances, he ought to have that right. I have voted for nearly all of his nominees.

In this case, the head of the Environmental Protection Agency, while she was the nominee she knew she needed 60 votes. She knew she ought to see not just the Members of the majority party but those in the minority as well, and

she made the rounds to my office as well as others.

We had a good meeting. For example, I explained the importance of the dust regulations that are promulgated by the EPA where Arizona has a problem. We have occasional dust storms that are not recognized as such, and sometimes we have to fill out paperwork that is costly and time consuming just to convince the Federal Government that an occasional dust storm does blow through. It has nothing to do with the air quality protections or provisions that have been put in place but just because of the conditions on the ground. The Environmental Protection Agency's guidance and regulations have not caught up to that.

She was understanding of that. She worked at the State level and agreed to talk to the stakeholders and interested parties in Arizona about this issue. She made good on that promise. We had that conference call a few weeks later, and it was the first time that many of these people in Arizona had been heard on the issue. They had a good meeting with the EPA, and I think it will lead to better regulations coming out of the EPA.

That was a product of the process we had here which requires nominees from the President to not just go to the majority party, but to go to the minority party as well. I fear that has been lost, and I think that is a shame. I wish we could go back to the system we had and the system the Senate has operated on for a long time.

When I gave my maiden speech on the floor a few months ago, I mentioned that the party holding the gavel is on a short leash. Bringing even the most noncontroversial resolutions to the Senate floor requires the agreement, or at least the acquiescence, of the minority party. I mentioned at that time that over the past decade both parties have chafed under these arrangements. Both parties have, at times, considered changing the rules that would in some measure make the Senate more like the House. I mentioned at that time, up to that time, that both parties had resisted that urge. They had been convinced by their own Members and others that it wasn't the way to go. Unfortunately, that is no longer the case, and I think this body, this institution will be the poorer for it. I hope we can return to the traditions of the Senate, one where consensus is the hallmark of this body. I hope we can get there.

Let me turn my attention to one of the issues that I think is a good example of what happens when one party moves legislation through this body too quickly, without consultations from the other party. It has to do with the Affordable Care Act. The Affordable Care Act passed with not a single Republican vote in the House or in the Senate. I think it is a good example of what can happen if legislation is rushed through without consultation or input from both parties.

Let me speak about some of the issues that have come up with the Affordable Care Act, better known as ObamaCare. The Wall Street Journal had an editorial the other day that talked about some of the issues that are going on with the enrollment data. It says:

Most of Washington seems to have bought the White House claim that 36 federal exchanges are finally working. . . .

They go on to explain what working really means:

A charitable reading suggests that ObamaCare's net enrollment stands at about negative four million. That's the estimated four million to five and a half million people who had their individual plans liquidated as ObamaCare-noncompliant—

They are liquidated because they were noncompliant with ObamaCare—offset by about 364,682 who have signed up for a plan on a state or federal exchange and the 803,077 who have been found to be eligible to receive Medicaid.

So if we take that and net it out, it means that net enrollment—people who now are covered by insurance of some type—has gone down by about 4 million. I think when we consider things are picking up in terms of people signing up, they are still being dropped far faster from private insurance plans than they are being picked up.

It goes on, this editorial from the Wall Street Journal, saying:

HHS is boasting of enrollment for November that was four times as high as October, yet 62 percent of the total was in the state exchanges, some of which are marginally less prone to crashing than the federal version. Then again, 41 states posted sign-ups only in the three or four figures, including eight states that run their own exchanges. Oregon managed to scrape up 44 people. Among the 137,204 federal sign-ups, no state is reaching the critical mass necessary for stable insurance prices.

One problem they mention as well is that these figures are probably misleading. They say:

A larger problem is that none of these represent true enrollments. HHS is reporting how many people “selected” a plan on the exchange, not how many people have actually enrolled in the plan with an insurance company by paying the first month's premium, which is how the private insurance industry defines enrollment. HHS has made up its own standard.

I think when we find out that there is probably a pretty large dropoff between those who actually enroll and those who actually sign up, then they will realize these figures are misleading as well.

Let me turn to another related issue. Michael Tanner of the Cato Institute had a piece the other day where he said:

The good news, if you want to call it that, is that roughly 1.6 million Americans have been enrolled in ObamaCare so far.

The not-so-good news is that 1.46 million of them actually signed up for Medicaid. If that trend continues, it could bankrupt both federal and state governments.

He notes:

Medicaid is already America's third-largest government program, trailing only So-

cial Security and Medicare, as a proportion of the federal budget. Almost 8 cents out of every dollar that the federal government spends goes to Medicaid. That's more than \$265 billion per year.

As these Medicaid rolls expand, we know that is going to be a huge expense and probably a greater number of people signing up than anybody we thought would do. The Federal Government has committed to pick up 100 percent of the cost of new enrollees for a 3-year period, and then 90 percent thereafter. If the Federal Government makes good on that pledge, it may cost us a lot more than we figured, and it will increase the budget pressure on the Federal Government. If the Federal Government does what it often does and shifts those costs to the States, then the States are going to need to be prepared for a big increase as well.

Mr. Tanner mentions:

State governments pay another \$160 billion for Medicaid today. For most states, Medicaid is the single-largest cost of government, crowding out education, transportation and everything else.

New York spent more than \$15 billion on Medicaid last year, roughly 30 percent of all state expenditures. The Kaiser Foundation projects that over the next 10 years, New York taxpayers will shell out some \$433 billion for the program.

There are going to be increasing pressures on State budgets as well.

So these are some of the things we haven't considered yet.

As we go into the new year, the next big shoe to drop will be in April or so when insurance companies actually see who is enrolling and who is not in the exchanges. I think everyone's fear is that there are too few healthy 28-year-olds signing up and more who are more high-cost enrollees and the numbers just will not add up and the insurance companies will be forced to jack up their rates, which will make insurance even less affordable than it is today and could increase the pressures we are talking about both on the Federal Government, on State governments, and, most importantly, on families across the country.

I found of interest today a story by CNN. CNN looked at four stories after the ObamaCare so-called fix. They concluded in their headline “many are still left out.” Let me discuss briefly a couple of these and it gives some idea of what families are facing. This is exactly what I am hearing at home from neighbors and family and friends and exactly what I am experiencing enrolling in the Federal exchange as well—these kinds of cost increases. It reads:

In the face of mounting criticism, President Barack Obama announced last month that he would allow insurance companies to renew so-called “subpar” plans for existing customers. But nearly a month later, not everyone is seeing the benefit of this policy change.

They note that they spoke to four people in the days and weeks following the President's announcement to see how they have been affected. The results were varied, and for some of them the future remains uncertain.

When we read through the stories it seems for everyone it is a pretty uncertain and more costly future.

The first person they talk to is a woman by the name of Catherine. She said it is a 280-percent increase in premiums for her family.

It was in September when Catherine received her letter. The much-maligned HealthCare.gov Web site had yet to be launched and approval ratings for the President's signature health care law were on the upswing.

Catherine knew she would have to sign up for a new insurance plan but didn't expect her options to be so costly. She is a mom and a Navy veteran employed part-time as a nurse. Her husband is a small business owner. Her employer offers insurance plans but because she was not working full-time, getting a policy to cover her family of three was expensive. Unfortunately for her, a provision in the new health care law states that since her company offers plans that she could afford to cover herself but not her family, she does not qualify for a subsidy from the Federal Government, even though she is below the income threshold. She is, therefore, subject to an unusual loophole that requires her to pay the full premium of a new policy if she wants to cover her family or leave her job to get the subsidy.

So we are seeing a huge increase in premiums. She experienced a 280-percent increase in premiums. That mirrors what I have been hearing from others as well.

Greg and Linda live just down the street from me at home. I got an email from Greg, a friend of ours, the other day. He said that he and Linda, who are near 60 years old, had their insurance canceled because it was noncompliant with the new law. They went out and shopped on the exchange and found that the cheapest policy or the policy that most closely mirrored theirs—actually not as good as theirs but most closely mirrored theirs—was double their previous cost to more than \$800 a month. That is what I am hearing again and again and again. When we read through these stories, we see it again and again.

Here is another one, again from the CNN story:

By most people's standards, Valentina Holroyd is in excellent health. She works out six to seven days a week and competes in triathlons with a group of equally high-energy friends. She participates in 10 or 12 races a year. She is a moderate Democrat who hoped that this new law would help people with preexisting conditions such as her husband get access to insurance and would allow people who could not afford insurance to get plans within their reach.

It goes on to say that she had a plan, but then everything changed in October. She was notified by her insurer that her plan could not be renewed for 2014. The comparable plan offered was a 29-percent increase in premiums with higher copays as well as significantly higher prescription drug costs.

The people I talk to, virtually all of them, are saying not only is there an increase in premiums but there are higher copays, higher max out-of-pocket costs. It is just not as affordable as it was before.

I think the fear all of us have is that as we go into the new year and we see the numbers of those who are actually signing up or not signing up, it simply means that rates are going to go up again and again. Once the employer mandate kicks in and a lot of businesses then unload their employees into the exchange, we are simply going to see the same problem. Only those who can afford it or those who are more expensive to insure will be signing up, by and large, and too few healthy individuals to lower the cost for everyone in a high pool, so costs will simply go up again.

We can't have this go on for very much longer. This is called the Affordable Care Act, but I think most of us are finding it is anything but.

Let me just go to one more of these stories while I have time. This is a Connecticut psychologist by the name of Martin Klein, and he is someone who has had plenty of experiences dealing with insurance companies. He has been practicing in the State for 11 years, runs two offices.

Anthem Blue Cross Blue Shield sent him a letter notifying him that his plan would no longer be offered for renewal when it expires in January. They said he needed to shop on the exchange. He goes on to explain that it is simply not as affordable as his old plan.

As we go along in this coming year, we have to find out how we can actually make good on the promise that was given to have health care that is actually accessible and affordable for those who can't access it now. We all know the current system doesn't work very well. It needs to be changed. But change in this matter simply means that more people are uninsured and unsure about the future as well.

I appreciate the opportunity to be here and speak about this tonight and I yield the floor.

The PRESIDING OFFICER (Mr. DONNELLY). The Senator from Wyoming.

MR. ENZI. Mr. President, good morning, Wyoming. In Wyoming it is midnight right now. I suspect there are people watching and probably wondering what the heck is going on. We are here at this hour dealing with a nonessential distraction, and it is being done so that it is a distraction from the mounting ObamaCare problems.

None of these nominees need to be confirmed, not even the circuit court judges, and maybe especially the circuit court judges. I was here when President Bush tried to fill those circuit court judges in the DC Circuit. And I remember Senator REID and the chairman of the Judiciary Committee making an impassioned speech that they were not needed, that the workload was too low in the District of Columbia, that they should not be approved. Of course, since they were in the majority, they had the capability to ever keep that from happening. But when the shoe is on the other foot, they need those DC court judges, even though the caseload has not gone up.

So they broke the rules to the change the rules, and part of that was so that—we are calling it ObamaCare 2—it was so that the American people would be distracted from the problems they are having signing up for ObamaCare. Some of my constituents ask that I not call it "ObamaCare." They ask that I call it "the Obama tax" because that is what the Supreme Court said was the legal part of it, that we can virtually tax anybody anything we want as long as we call it a tax. If we put it in the Commerce clause, oh, that will not work. But that is the ruling we got from the Supreme Court.

So right now the Democrats are trying to distract us from what is going on across this country; and, oh boy, is it going on across this country. So we should be dealing with the problems of ObamaCare. Each day the health care law is going to fail to live up to the promises made by the administration. How many people have heard the President say—and he started doing this clear back in the joint sessions of Congress so he could explain his law—he said: If you like the insurance you have, you can keep it. That has not been true almost since day one. It especially has not been true since some of the regulations have been put in place.

So we have a failed law. Let me tell you how bad it is failing. A couple weekends ago I got to Cheyenne, WY, early enough to address some school kids. I actually read a children's book to the kindergarten classes of the whole school. After I finished, a little girl came up. She could not have been any taller than that, and she said: Are we going to be able to fix this health care mess? When it has gotten down to kindergartners, you know that the adults are talking about it even more.

It is a problem. It is a problem that needs to be solved. We should not be playing "the Grinch that stole Christmas" and doing a whole bunch of nonessential appointments that could well wait until after Christmas or next year without hurting the courts at all. But, again, they want this outcry. They want this to detract from what is happening with ObamaCare.

Millions of people have lost their health care plans that they were told they could keep. Of course, the President has been forced now to admit that he broke his promise. But he did not remove the promise from the White House health care Web site. A week ago, it still said: If you like your plan, you can keep it, and you do not have to do a thing. I guess that might be partly true because he announced a new initiative that he said would really allow people to keep their existing health insurance plans this time. He should have added, if he wanted to be honest: for a short time. Because that is all he gave them. That is not even true because one thing he does not have the power under the Constitution to do is to rewrite or ignore the law.

We passed a law by this body and the House, and he signed it, and he contin-

ually talks about how that is settled law and you cannot change it. Then about twice a week he changes it without authority, ignoring the written laws passed by Congress.

So it would also mean that he would have to be willing to ignore a 2010 administration regulation that has prevented insurers from continuing to offer insurance for millions of individuals and small businesses. That is right. At the same time the President was promising out of one side of his mouth that people could keep their health insurance, the other side was approving rules that would make that impossible. Everyone who was in the Senate at the time knew it. It was right there in the Federal Register. It was written by the President's own administration. Congress knew and the administration knew the President was not telling the truth. But he kept making the promise anyway.

When one party has 60 votes in the Senate, the minority party has very limited things that it can do. There are a few exceptions to the majority leader's control. But essentially he decides what the Senate can debate and vote on. I have noticed if an amendment comes up that he does not like, instead of having us vote on it, he pulls the bill down.

Now, that is not the way it used to be. We used to be able to put amendments in, and even if the majority did not like the amendment, we still had to vote on it. Of course, if they did not like it, they voted it down. But that does not happen anymore. A number of bills that we have done around here have been prevented from having amendments, and sometimes this negotiation process that the leader uses takes 2 or 3 weeks. The amendments could be voted on in a week if they were just allowed to be voted on. But this process of negotiating so that he can tell the minority what amendments he is willing to address of ours—that takes away the right for us to represent our constituents.

Problems are different in the West. Problems are different in Wyoming. Problems are different in big cities. You cannot have one size fits all that works for everything. The reason there are so many Members of the Senate and so many Members of the House is so that the unintended consequences might be found before a bill becomes law. That has not been the case around here. That definitely was not the case on ObamaCare.

So the leader has helped the majority to prevent us from being able to bring up any amendments on any number of topics, and that has led to what we are doing tonight. We are taking advantage of some of our rights as the minority to see if we are going to get a chance at all. Nobody ever expected one party to be able to dictate to the other party. Of course, the other side did have 60 votes, and when you have 60 votes you can do anything you want because there is no such thing as a filibuster if you can get all 60 votes.

Of course, you probably remember that the majority had to kind of buy some of those votes. Yes, there was the Nebraska "Cornhusker kickback," and that Senator decided not to run again, and there has been the "Louisiana Purchase," and that Senator is up for election. There was the Florida deal and the New York deal that dealt with Medicare Advantage. Now, none of the rest of the States got those deals, and they had to be done. Those are places where there are a lot of seniors, and it was going to take away some of their capability for health care insurance that they already had. In fact, the bill stole \$716 billion from Medicare. Medicare is going broke, and it did it to make new programs. It did not do it to fix Medicare.

Tomorrow in the Finance Committee we are going to be marking up a doc fix, a thing so that doctors will be paid adequately, because there was a provision there that will continually reduce the amount they are getting. Of course, as you reduce the amount that a doctor can get, even in times of inflation, pretty quickly the doctors cannot afford to run their practice. When they cannot run their practice, they do not see Medicare patients. In fact, some practices shut down. Others sell out to the hospital. Do you think it is cheaper to get health care from a doctor or health care from a hospital? That drives up the cost again.

So one sure way to inject something not approved by the majority leader is to find an offensive regulation and petition the Senate for a debate and a simple majority vote. We have this thing called the Congressional Review Act, and that is exactly how it works. But you have to keep your eye on the Federal Register because that is where the administration reports what the effects are going to be and what the actual regulations are. Sometimes the regulations have more of an impact than the law itself, and that was the case in this instance. Again, it dealt with this: If you like your health insurance, you can keep it. But there was a regulation that came out in 2010 that took away that right.

Yes, I am the accountant. I read the bills, and now I even have to admit that I read the Federal Register. But there are a lot of dollars that are mentioned in there, and some of those are consequences of the bill. If you can catch one of those regulations within 60 days of the regulation's publication, and you can get enough people to sign the petition, you are guaranteed 8 hours of debate and an up-or-down vote. If you miss that date, it cannot be brought up again, and once it has been brought up, it cannot be brought up again. So if you lose the vote or you lose the opportunity, it cannot be brought up again. That opportunity is gone.

That is an opportunity that Democrats in the Senate squandered. Every single one voted to defeat my resolution, and many ridiculed the effort.

Over the next few months their constituents are going to make them answer for this. I can tell, some of them are already antsy over it. They are already drafting bills, and, of course, when you draft a bill in the context of a crisis, there is this legislative rule that if it is worth reacting to, it is worth overreacting to.

So, once again, it is not something that will be brought through the correct process and ironed out so there are not unintended consequences. They will have to pay a price. They need to pay attention when there is a rule that is going to affect people adversely. I have heard their arguments. There were a number of issues in this regulation, and there were two that they thought were good.

There is not any reason they could not have voted for the thing, gotten rid of it, and then brought those two back. That is how it ought to work. I really think that Congress ought to have the right to review every major regulation, and if we do not have a majority vote for that regulation, it should never go into effect.

A lot of the regulations are written by the administration. But the direction for doing the regulation comes from Congress. It is to get into a level of detail that we do not handle here, but maybe we should. Maybe that ought to be our biggest job: to make sure that the regulations are what we want to have happen, and to be sure that the unintended consequences are not even in the regulation. We have kind of given that away. But now we need to be sure we take back some oversight over that; otherwise, you have an administration that is a run-away. And that is the situation we have right now.

I fought against the new health care law for the past 4 years because I knew there was no way the President could keep all of the promises he was making about how the law would affect the average American. As an accountant and a former small business owner, I understood that you cannot mandate that everyone must purchase gold plated health insurance plans without increasing costs and causing millions of people to lose their existing insurance plans.

In fact, I have talked about exchanges, and the exchange that is there is not the one that I envisioned at all. I did not expect that the Federal Government would say: There are only four kinds of plans you can buy. You pick it out from bronze to platinum, but if you do not pick out one of our four plans, you cannot have a plan.

We did prescription Part D, and at that time there were only two companies that were providing seniors with prescription drugs in Wyoming. I was a little worried about what was going to happen if we opened the market a little bit. I was hopeful it would cause more competition, and that is exactly what happened. Instead of 2 companies providing the pharmaceuticals, 48 of them

were interested in doing it. That created a little confusion, but there was an exchange that you could go into, and you could list the drugs that you were taking, and when you hit the button it said: These are the companies that can provide that drug, and this is the price that you will have to pay.

Before that went into effect, it saved seniors 25 percent. That is what competition does. That is how the insurance plans should be set up. I have had a 10-step bill since before the President became a Senator that suggested how we could provide insurance for everyone.

Another thing that kind of fascinates me is the President talks about how we eliminated the caps for chronic illnesses so that nobody has to lose their insurance or lose their pay just because they have a chronic illness. Do you know what the flaw in that one is? If you are in Medicare, there are still caps. If you are a senior, there are still caps. We did not remove those. So even that is not a completely true statement.

So there is a little bit more here. If you cannot keep the health plans you like, then you are going to have a tougher time keeping the doctors and the hospitals you like. We are hearing those stories all over the Nation right now. Of course, the biggest problem—and the one that this little kindergarten was raising—was getting on the Web site to even be able to sign up for one of these policies that has more in it than what a family might want, particularly what an individual might want.

There is a lot of discussion on that. But that Web site is just the tip of the iceberg. That is what we have seen so far, the Web site failures. I think a lot of people have noticed that there are some Web site failures out there. In fact, I remember Jay Leno saying: You got to watch these health care sites because there are 700 sites already that are trying to steal your personal information, steal your identity. But he did point out that there is one way to know if you are on one of those phony sites: If you are able to sign up, you are on a phony site.

So, yes, there have been Web site failures. Here is what is coming: higher premiums, canceled coverages, you cannot keep your doctor. If you cannot see your doctor, do you have any insurance at all? I do not think so. And then there is the fraud and identity theft I mentioned and higher copays and deductibles. Pretty universal. There might be a few examples out there of where this has benefited someone, but most of the people are now paying through the nose and finding out that it is very hard for them to be able to afford the insurance they want.

So we should get ready for the next wave of disappointment and frustration from the expectations created by this President and his public relations machine as they come crashing up against the harsh reality of the real world.

ObamaCare casualties will continue to grow even if the President launches media blitz after media blitz—and those cost some money, incidentally—in an attempt to convince people that higher premiums, worse coverage, and a bigger debt for this country is a good thing.

One of the things we were able to get in the bill was a requirement that the Senate and the House come under the same rules as everyone else when it comes to exchanges. That has created quite a bit of consternation around here.

In the committee, it has improved things. I remember that about 4 months ago in the Finance Committee we were having a hearing with the people doing this Web site that has all of the failures. Both sides were asking intense questions because we wanted to be sure this would work.

One of the questions was: How is it coming?

They said: Oh, it is fine. We have already beta-tested it. It will work when it comes to October 1. Everything will work.

Well, I remember Senator BAUCUS saying: Can we get a list of the people who beta-tested it?

To my knowledge, he has never gotten that list because what we found out since is that it had not yet been tested at that time. So would that be considered a lie? I am not sure that all of the hearings are under oath. Maybe they ought to be.

But at any rate, it was not ready. As it turned out, there was 26 hours of beta testing. Talking to some of the other companies that would have liked to have tried to bid for a final project instead of bidding for a cost-plus job—that is what we got, a cost-plus job. Anyway, that complicates it, makes it more expensive, makes them earn more money. Talking to some of those other companies, they said that should have been beta-tested for at least 6 weeks to 6 months. Not only that, they should have had professional hackers trying to get into that system to see what is happening.

We keep having hearings on this issue. I remember at one of them Secretary Sebelius was there. We were asking about the security of the information. I am still trying to figure this out. She said the information goes in there, it pings around to the different people who need it, but none of it is stored on the system. Everybody is saying: So how do you retrieve your records? Well, I guess that is the problem so many Americans are having. They put in their information, they try to retrieve their records, and they cannot get their records. So it is a system that is fraught with a lot of problems and should never have happened. I guess that is what happens when you get in a hurry and you are not ready for it and you are more interested in public relations and media blitzes than you are in getting it right.

I know the President went coast to coast and all over the place and he sent

others trying to convince people that higher premiums and worse coverage and a bigger debt for this country is a good thing.

There was another interesting thing at our hearing. They said the premiums came down. So there were some extensive questions about that because there were not very many people who were aware of any of them coming down. The explanation was that the administration's estimate was that the prices would go up by 68 percent and they only went up by 45 percent. So that was a reduction in rates. No, that was an increase in rates. You cannot fool the American people that way. A lot of this is a smoke-and-mirrors attempt. It is not working.

So what is the opposition doing? We are doing a bunch of judges who do not need to be approved. That is to take the attention off ObamaCare. Well, we are not going to let that happen. The American public deserves to know what is happening with ObamaCare. The American public is concerned about it. We have kindergartners concerned about it. We have a lot of people concerned about it.

In fact, we had a cookie party at our office today. My wife bakes a couple thousand cookies every year. It is for the people who do the real work around the Senate. It is for the janitors and the carpenters and the electricians and the plumbers and the guards and people who work in the restaurants, and they all come by. I was surprised at how many of them were concerned about what is happening with their insurance and their ability to get on it. Some of them even recognized the effort I made in 2010 to get the Congressional Review Act—the only window we had to reverse that lie that if you like your insurance, you can keep it.

So during the health care debate, the President and his congressional allies also promised that the new health care law would reduce health insurance premiums for American families. I covered that briefly. I and my colleagues argued that rather than saving money, the new law instead would drive up the cost of insurance for millions of families. There is no way in there to increase the competition. If you are going to increase the competition, you need to have a sale of insurance across State lines and you need people to be able to go through an association to get a big enough group who can effectively negotiate with an insurance company. There are a lot of ways of getting that to increase. That did not happen. There also were some co-ops that were formed. Now it looks as though the money that went to the co-ops may have been money poured down the drain because apparently they are not doing too well. So the disastrous planning and implementation of the healthcare.gov Web site made it difficult for Americans to learn just how much this partisan law has driven up costs.

We warned, when it was 60 votes that could pass the whole thing, that if the

60 votes passed the whole thing without a single Republican vote, they would be stuck with it. That is exactly where the majority is at the present time—stuck with it.

So people are learning how much their premiums are increasing. The more they do, the more people will not appreciate how the President's promise failed to reflect the reality of the new health care law. I think they really thought they might get to just kind of pick what they needed and find out what the cost was. That was my idea for how we ought to do it. I presented that at the summit with the President. He invited several of us after the bill passed. He should have done it before the bill passed, but he did it after the bill passed. A dozen of us and a dozen Democrats got invited to the Blair House to tell him what we thought should be in the bill. The strange thing about that was every time Republicans threw out an idea, he chopped it to bits. He did not comment on the Democratic ones. At the end of the day he gave a speech he had obviously written the day before because it did not deal with any of the ideas we had discussed on either side of the aisle. He obviously rejected every one of the Republican ideas.

I talked about exchanges and said: You should be able to go online, have a list of insurance possibilities. You could check whatever possibility you thought you needed. One of the things they talked about is if you are a 60-year-old lady who has had a hysterectomy, you probably do not need maternity care, so you would not check that box. But you would check the boxes that you thought applied, that you would really like to have. Then when you hit the "enter" key, it would bring up the list of the companies that would provide exactly what you wanted and tell you what the cost would be. You would not have to sit down with a dozen or two dozen insurance agents and hear their pitch for why they are the best. You would be able to tell what you wanted, and then you would be able to see who provided it and what it would cost. Then you would have choices. That would inspire competition, partly because each of the companies would know what the other companies were selling things for. That sometimes brings prices down as well.

So we had disastrous planning and implementation. People are starting to learn how much their premiums are increasing.

The President and his allies also promised that the new law would improve the economy and protect Medicare beneficiaries. I have often been wondering how that would work. We now know that the small businesses across the country are not hiring workers because of the impact of the health care law and the impact it will have on the bottom line.

I am traveling Wyoming, and I run into a guy who says: You know, I have this great business. It is time for me to

expand. In this town I want to go to, there is a phenomenal location. It is the perfect location and the price is right. Should I expand?

One of the questions that I ask is, How many employees do you have? If he says 45 to 50, I say: I would take another look at it because you better see the effects ObamaCare is going to have on what you are trying to do. In most of those instances, they have not increased. There are a number of problems like that.

I was in a small business committee hearing. I was kind of wondering what "aggregation" meant. That is a pretty big word to use. But they were able to explain aggregation. An aggregation means this rule that if you work under 30 hours, you are considered part time. So we changed it from being under 40 hours to being under 30 hours before it was part time, and that has caused a lot of people to take two jobs and not get benefits from either of the jobs. So they are getting a reduction in pay because of this law.

But here is the kicker. That doesn't help the small businessman anyway. Here is how aggregation works. You have 10 employees at 29 hours; that is 290 hours. You divide by 30, and then you find out that you still have 9 2/3 employees. So by making this drastic cut, you were only able to reduce your numbers by one-third of an employee. Again, that is kind of a fraudulent situation to rope people into doing the ObamaCare thing.

Another way that aggregation works, according to this hearing I went to, is that if you own a piece of one business and you own a piece of another business but you do not own a majority of either of the businesses, the two have to be combined to figure out whether you have employees who come under ObamaCare. That is wrong. That is fraud.

These things ought to be very clear. I think that if we were able to get a vote on raising that part-time work back up to 40 hours, we would see a huge number of people who would vote for it or a huge number of people who would not be around here much longer. Of course, the Small Business Administration says that a small business is not 50 employees, a small business is 500 employees.

So just by changing those two things in ObamaCare, we could probably have more jobs in the economy than the stimulus package ever provided. There are other changes we could make in ObamaCare that would have a bigger effect than the stimulus package. Oh, yes, that is right, that is not a very high mountain to climb, is it?

Another thing we ought to do is eliminate some of the regulations that have been put out there. I know of six regulations that if we got rid of them, it would not affect our way of life, but it would increase jobs and the economy more than the stimulus. We could have an increase in the economy around here, but we cannot do it if we keep

loading up the businesses with more regulations. You know we had a government shutdown not too long ago.

I got an interesting letter from a trucker from Pinedale, WY. He said he was getting a little tired of all of the people who were riding in the wagon and how many fewer people were pulling the wagon. What he is referring to with that is that every time we expand the government, every time we do one of those new programs and put a whole bunch of new people on the payroll—heck, we got a whole bunch more just in IRS people who are supposed to be checking on ObamaCare. If you put them in the wagon and the private sector has to pull it, there will come a point where they cannot pull it anymore.

What he was suggesting was that if we wanted to really find out about America, that the private sector ought to have a shutdown. It would not take 16 days for us to realize the effect of the private market. That is something we have to watch out for because that is where the taxes come from.

Oh, yes, all of us in government pay taxes. None of us pay as much in taxes as we receive in wages. We are riding in the wagon, and it is getting tougher and tougher to pull.

ObamaCare is something that really loaded the wagon with the regulations they have to pull around. It is a tremendous burden. A small businessman can't read the thousands of pages of regulations. Do you know what. They have to.

I was able to get a review committee, and it was over \$1 million in costs in new regulations. That is a very severe committee. They do a very good job. I am pleased with the people who run it. Unfortunately, again we are missing an enforcement piece, so that again the regulation disappears for small businessmen. It is going to be very detrimental.

We try to do these one-size-fits-all things around here, which is what ObamaCare is. Well, it is four-sizes-fit-all. One-size-fits-all or four-sizes-fit-all won't take care of America. This is probably the most diverse country in the whole world and the most successful country in the whole world because it is so diverse. We have so many different kinds of people doing so many different things.

It has also been one of the most innovative countries in the world, and that is where we want to be. We want to be inventing things for the world and having the other countries pick them up when they get a little older and steal them at that point. That is the way it has always worked. But we are taking away the incentives for these people to use their minds to create new things that will sell all over the world the way we are used to it. That is what has brought prosperity to the United States—inventiveness. We invented a new government, and it has worked very well up to now. We have invented all kinds of things from which the

world has benefited. We need to make sure that what we do encourages that instead of discourages it.

This thing that the government knows best—I don't run into many people who think that is right. Most of them think the government doesn't have enough experience in business.

I go back to Wyoming almost every weekend, and I travel to a different part of the State. Over the weekend I try to get into a business or two. I try to find out what they do, how they do it, and, most importantly, how the Federal Government might interfere or help them. It is very valuable. I have found that if a person hasn't been in business, every business looks simple.

We should look at how people look at our jobs. It looks very simple. They don't expect that anybody is going to be speaking at 2:30 in the morning. They think all we do is vote, which is not true. We have to draft bills. But it is more difficult in the private sector than it is in government because people's wages, people's food, and people's housing rely on that business paying them.

Among the small business committee—and I keep explaining that one really hasn't been in business unless they wake straight up in the middle of the night in a sweat, saying: Tomorrow is payday. How do I meet the payroll? That is being in business, and it happens to every small businessman out there once in a while. For some of them, it is the end of that small business.

We have to watch out for those small businesses because those are the ones that grow into big businesses. Those are the ones that become a part of the world market. There is more opportunity for that now more than there ever was, but there won't be if we keep stifling them, if we keep piling regulations on so they spend all of their time reading the regulations that we did. Thousands of pages of regulations are turned out all the time. I read the Federal Register, and it is getting heavier to carry all the time.

We know that small businesses across the country are not hiring new workers because of the impact of the health care law and what it will have on their bottom lines. If they are not profitable, they will be out of business. They are not like the government. They can't spend more money than they have. They don't understand why we don't understand. Why do we keep spending more money than we have coming in and doing it continually? I guess it is because we can sell bonds and we don't think there is going to be any consequence to it. If interest rates go up, we are not going to be able to do even national defense. So we need to be more careful about what we are doing and do things more timely.

Millions of Medicare beneficiaries are going to face reductions in their existing benefits as a result of the billions that were taken from Medicare. That was to fund the new law; it wasn't to



provide more benefits for seniors. Most of the seniors have figured that out. I already mentioned that they have caps on their benefits even though the President promised there wouldn't be caps on benefits. There aren't caps on benefits if someone is out there working in the private sector, which, incidentally, makes it very hard to figure out the actuarial cost of a plan.

It is not quite 2014 yet, and most of the thousands of pages of the new law haven't even gone into effect. But each day it seems there is a new breaking story about what a debacle this health care law is turning out to be.

I received a letter from Jessica in Laramie, who explained how this health care law is negatively affecting her. Jessica's catastrophic health care plan, as a single adult, according to [healthcare.gov](http://healthcare.gov), is \$297 per month. This is with the premium support from the Federal Government. I repeat, this is with the subsidy.

The University of Wyoming health insurance rate for a semester is \$452. This is over the course of 4 months. The university's rate is nothing new; it was available for students long before the Democrats forced their health care disaster through Congress.

Today, Jessica's premiums would cost more than any of her medical bills to date. Jessica recently fractured her foot—a very common injury—and that cost her less than \$300 in some medical bills. When they start looking at the Web site, they are going to find out that the deductibles have gone up dramatically.

One of the things that has been constrained and in some cases eliminated is health savings accounts. That is the right thing for young people to have. Of course, that doesn't pay for the older, sicker people, so we had to force them out of that system and get them into the regular system with everybody else and compress the prices so that the younger people are paying for the older people. I don't think they are going to stand for that for very long. I think they are going to be upset about it. I think they are already upset about it. Health savings accounts provided them a way to have catastrophic insurance and the right to put money, tax free, into an account that could grow over time and provide for the deductible they have. That is very essential. If they keep putting money in the account tax free and it keeps growing, it might take care of their health care for the rest of their lives. I think it is a solution for everybody. Again, it is one of those where one size doesn't fit all, but it fits a lot of people, and they ought to have that option, but they don't.

Of course, the bill doesn't really allow us to do the flex spending accounts either. That is one where some people have the right, through their company's health insurance plan, to set aside some additional money to take care of health care during the year—again, tax free. Of course, since it is tax free and we want to raise

taxes, we are going to eliminate that. Well, I don't want to. I think that was essential and we ought to have it. But the other side of the aisle decided it was terrible and we ought to eliminate it or reduce it and put extra requirements on it so there was less that you could get with it even though those are individual choices on health care expenditures that a person has to make with their own money.

That is one of the keys to bringing down health care expenditures—have people make their own choices with their own money. If people are making the choices with their company's money or the Federal Government's money, it doesn't make nearly as much difference. If they are not participating in a plan at all and they can get whatever they need and they can go to a very expensive place instead of a less expensive place, that is going to break the system, and that is some of where we are.

I mentioned Jessica's plan and how it is going to go up considerably higher than what her costs are for normal medical. Well, Jessica's mother also works for the State government and she has health care through the State. However, even though she is under the age of 26, Jessica is not allowed to join her mother's insurance plan. That is yet another example of a broken promise from the Obama administration. The President's flawed health care bill is a raw deal for our students and for our Nation.

Jessica said: It feels like the government is punishing everyone for the few people who have health care bills worth more than a house. It isn't remotely fair.

Students are paying the price, and they are realizing it. They know what a bad deal has been foisted on them.

Karen from Cody contacted me because her construction company had to drop their Blue Cross Blue Shield health insurance plan. Why? The President's flawed health care plan mandates health care coverage for full-time employees who work more than 90 days for the company. The company was already providing health care plans for their employees, and now these folks can't keep the health care plan they like. Their employees are mostly young Americans, and they are trying to make their budgets work. They couldn't afford to sign up for health care plans that would reduce their pay. As a result, all of her employees will have to seek individual policies in 2014. Karen also said there is a lack of information on insurance plans. She doesn't know what doctors and what medical facilities will be included or even available in any health insurance plan next year. Karen is upset. I am upset too.

I have said for 5 or 6 years that if a person can't see a doctor, they don't have any kind of insurance. And that is what we are running into. Doctors are changing the way they operate, and they are saying: If you are on Medicare, I don't think I will be able to

take you. We have problems with doctors who deliver babies because of the long tail on their potential liability, which goes until the child is of age. That creates a lot of other costs, but that is a different story.

It is time for Congress to heed the calls of the majority of Americans and repeal this partisan law. That isn't going to happen unless ordinary Americans continue to speak out and demand those who brought them ObamaCare keep their promises, every one of them.

I can go on about health care much more, and I may come back to it, but I am going to talk about the budget deal because I am a little upset about that.

One of the problems we have is that we are now in a mode of making deals instead of legislating. This body isn't designed to make deals, to send half a dozen people to solve a problem or, in this case of the budget deal, 2 people—one from the House and one from the Senate. Everybody else feels as if they ought to have some input. No—everybody feels their constituents should have some input, and that is what we are missing.

We send 2 people, 6 people, or 10 people to come up with a deal, we set a date so the media can crescendo up to that point, and then they bring us what the budget deal will be and we vote yes or no. We don't get to do any amendments. That is not how we are designed, and that won't work either.

I would like to talk about the recently announced Murray-Ryan budget deal. I hoped we would have an open process to finally come up with a solution to our Nation's spending problems, but that didn't happen. Instead, we have another backroom deal put together by two Members. That is bad for our country. It is tough on those individuals. They worked hard and came up with something, but they didn't have all of the input from everybody. That makes it difficult too. It is usually done through amendments—amendments that are debated and voted up-or-down. But that doesn't happen anymore.

This budget deal increases spending and shows that one thing Democrats and Republicans can agree on is putting off the tough decisions. We can't keep on doing that. I just showed how we are piling it onto the young with ObamaCare. Now we are piling it onto them with the budget deal. Every man, woman, and child out there—a child who was just born today already owes \$50,000 in national debt. How would you like to carry that burden around and then be looking at student loans?

Incidentally, student loans were a part of paying for ObamaCare. People probably heard the controversy where the rates were to go to 6.88 percent. At that time the Federal Government was paying .86 percent for interest, so that other 6 percent was to go to help fund ObamaCare. But the students found that out and said: That is not fair. The President said: Yes, it is not fair. We



are going to change that. We are going to knock it down to 3.44 percent. Well, that is still 3 percent the students are paying on ObamaCare. But the real kicker is that it was just extended for 1 year and it was only extended for 40 percent of the students attending college. That is wrong. When it came up the next time, several of us got together and did a little bill. That bill makes it more fair for 100 percent of the kids going to college. We set it as a slight fee above whatever the Federal Government is borrowing the money at. What that fee is when you enter into that loan will be the price of that loan for the life of the loan, and it will apply for 100 percent of the individuals. So we found a way, and it actually passed. I think everybody was relieved, although we have this habit around here of wanting to hold people hostage 6 months at a time. That is what we have been doing on the doc fix for quite a while.

But to get back to the budget deal, the plan does spend more than the current law. It charges people in States for more things and uses the money to increase the spending in nonrelated areas. Spending cuts are scheduled for outlying years. We say: Oh, yes, we are going to cut that stuff, but we are going to do it on the end of 10 years, but the so-called savings from that are used up right now.

Is there anybody in America who can go ahead and spend their future earnings now and not have to do it on the other end, when it actually comes due? That is what we have been doing for far too long. Those spending cuts are scheduled for outlying years and are called savings but are used up right away, and that just isn't real. Let's call it what it is. It is not real, and it is wrong.

This bill has a lot of problems. It again raises rates for premiums that private companies pay the Federal Government to guarantee their pension benefits. I worked on a bill—the Pension Protection Act—several years ago, and the goal of that bill was to make sure companies that promised people pensions would result in people getting pensions. We wanted to do it without putting the companies out of business because then it falls on the Federal Government with this Pension Benefit Guaranty Corporation.

Two years ago, we raised the rates, and the PBGC could use the money, but that isn't where the money went. We put it into highways for 2 years. Ten years' worth of money, 2 years' worth of highways. Now we are raising that pension guaranty again by \$200 per person. How many companies do you think are going to keep their pension plans?

People might not be aware that pensions are voluntary in this country. They are not mandated. They are voluntary. Fortunately, there are a lot of companies that realize the value of maintaining their employees and so they have pension plans and they

worry about those pension plans. They want to make sure they are going to be solvent so they can provide what they need to. They are liable for it. So it is wrong for us to increase a tax to say we are going to help make sure those are more secure and then the money never goes into the fund that insures it. Let's see. Should that come under the category of fraud?

So those savings from these rate increases will be spent on Federal discretionary programs, and employers are still in the process of implementing a \$9 billion rate increase to pay for the highways in last year's transit bill. So to put it simply, over 2 years the flat rate premium will have increased 40 percent, and over 3 years the variable rate premium will have increased over 100 percent.

If you are in business and you are looking at a 100-percent increase in your pension costs, you have to take a look at it and say there has to be a different way we can go, and that is going to mean a lot of people are not going to have pensions. They will have the pensions they have been promised to that date but not the pensions they were looking forward to at the time they retire. That is a huge tax and it will cause companies to end their voluntary pension and their retirement plans.

These pensions are completely voluntary, and if the cost to keep them goes up, companies may have to re-evaluate. Workers and their families will be forced to find other ways to save for retirement due to this increased tax on companies.

There isn't anything else you can call it. I notice they are trying to call it a fee. The definition of a fee is if you don't participate, then you don't have to pay it. But that isn't what we are trying to do. We are trying to have companies provide pensions. We are not trying to have them realize they can't afford the pensions they are giving out because of increased charges by the Federal Government. So that is wrong.

Under this budget deal, they are again telling Wyoming, Montana, Utah, Colorado, New Mexico, and other States that allow for the production of minerals on their land that the Federal Government deserves more than half the revenue. Under Federal law, States are entitled to half the royalties collected by the Federal Government for energy production on their lands. To distribute the State's share, the law intends for the Minerals Management Service to divide the amount of mineral royalties collected by the two and to write a check for that amount and mail it to the States. But an even split isn't enough under this new budget. In an attempt to satisfy an insatiable appetite for spending, the budget bill plans to take more money away from our States—about \$40 million each year.

We had an interesting situation this last year when they did the sequester. The Federal Government said: OK. Our half of the money when it comes in is

revenue. Your half of the money when it goes out is an expenditure. Therefore, we need to take the 5.3 percent out of that. When we heard that, we started passing a bill around and getting a lot of traction on it from both red and blue States saying: That is wrong. You can't take our money away. If you are going to take something out for sequester, it at least ought to come out of both halves, but it definitely doesn't deserve to come out of what is by law money that belongs to the State.

We raised enough furor, and it looked like that bill could pass—and I am sorry we didn't go ahead and pass it. The Federal Government decided they were wrong, so they have agreed they are going to pay back that 5.3 percent they stole from the States. But this budget puts about another \$40 million each year in there that the Federal Government is going to keep out of the State's half. That is money the States use for roads, for health care—yes, health care—education for children and more efficient environmentally friendly development of our energy resources.

It is money that finds its way directly to the people, not down some bureaucratic black hole. A disproportionate share of this funding—about \$20 million—comes from my home State of Wyoming, which supplies a disproportionate share of energy to this country. Yet the Federal Government still wants more. Unlike bureaucrats, we have to answer to our constituents. Mine are telling me they do not want the Federal Government to take any more of our State's money. I am sure my colleagues will hear the same thing. Whenever you have some money, they are saying: OK. The States are rich now, compared to the Federal Government, and that is true for almost every State. So they are planning on how they can steal money from the States and give to it the Federal Government.

Worst of all, the so-called budget conference committee, for all practical purposes, did not exist. The agreement was the sole product of one House Member and one Senate Member. I sat on the conference committee, but I can tell you that I am hearing the particulars of the deal at the same time as the public. They weren't part of the process or the negotiations and neither were we. We did have a meeting to begin with, and everybody got to give statements for how they thought this deal ought to go, but there were no further meetings of the conference.

Any conference I have ever been on, once there was a deal made, you met again and you got an explanation of the deal and then all the sides voted. If it didn't receive a positive vote in the Senate and in the House, it wasn't passed on as a conference that was finished yet. You went back to the drawing board again.

I guess we are in a crisis here and decided we had to do something in a

hurry, but that is the worst of all worlds when you do that. We were not a part of the process or the negotiations, and it is not the way this body was designed. Conference committees have a definite purpose.

Actually, the task should not have even been assigned to the Budget Committee. The task should have been assigned to the spending committees. We were at the point where in the calendar business there are already bills that the appropriators—the spending people—have put together for all 12 items. Those could have been brought up one at a time, probably would take 1 week for each of them, if amendments were allowed, and we would have wound up with a pretty good budget, in pretty good standing.

Of course, I am kind of fascinated. We are about to January, and in January I will have dozens of people visiting me. It is a long trip from Wyoming to come out here and they will come out here on individual programs of the Federal Government and they will say: Please, this is how important this particular program is. Please make sure we get funding for it.

One of them is Head Start. They actually think we get to look at the Head Start budget and make additions or subtractions from it. We don't even get to look at Health and Human Services or transportation or any of those. They all get lumped together sometime in the year. There is no oversight. There are no decisions by the main body on how to spend \$1 trillion a year. That is the wrong way to do it.

So this is a symptom of the abandonment of the committee process. Instead of Representatives and Senators offering constructive amendments and debating spending bills in public, a couple of people and their staffs sit in a room and then present a take it or leave it right before a holiday or a manufactured crisis deadline.

We are going to have that yet on the Omnibus spending bill. Right now we are just doing a continuing resolution and allowing those agencies to spend one-twelfth of what they spent the year before, essentially. So they do not know what they get to do for the rest of the year. When the sequester hit, it was supposed to be 2.3 percent, so they had to take those cuts out of the last 4 months. The result was they had to take 5.3 percent out.

I mentioned Head Start. They came to me and they said: We can't afford to have a 7½-percent cut every year. I said: Where did the 7½-percent come from? They said: That is what we are being cut.

It looks to me like what happened is the bureaucracy in Washington took their 5.3-percent cut but stole 2.3 percent from the local folks in order to pay for the Washington bureaucracy. So it was the kids who suffered. The kids didn't get the money. More kids had to be taken off the roll instead of more kids put on the roll. If it is going to hurt, it ought to hurt in Wash-

ington. It shouldn't hurt out there where the kids are.

I have some solutions for it. One of them is the no government shutdowns. The way that would work is if those spending committees don't have their work done by the time they are supposed to, which would be October 1, each spending committee would have to take 1 percent off of what they are allowed to spend each quarter until they actually get their work done. I think that would be a little incentive for them to get their work done.

I also have a penny plan. A penny plan would cut one cent off of every dollar the Federal Government spends. That in conjunction with the sequester would balance our budget in just 2 years—just 2 years. That would be 3.2 percent for 2 years. I think the people would say: You know, that wasn't too bad—provided we didn't make it hurt.

That is one of the terrible things about government. They always like to pick the things people will notice, instead of eliminating things such as duplication. There is plenty of duplication out there. There is \$900 billion a year in the Federal Government in duplication. We ought to be able to eliminate half of duplication, shouldn't we? That would be a better deal than the sequester. But we don't do that. We make it hurt. We want people to notice their item is being cut and then they complain and then we restore it and that is how you get to \$17 trillion worth of debt.

But with the penny plan everything would be on the table. It would have flexibility so it didn't have to hurt. We could get rid of that duplication.

Then, of course, I am also proposing a biennial budget. The way that would work is we would appropriate for every agency for a 2-year period so they know what they are doing for 2 years. They could actually do some planning. We shouldn't wait until we are 8 months through the year before we tell them how to spend their money for the last 4 months.

I have a little twist in my biennial budgeting. I would split the 12 spending bills into 2 categories. Right after an election, that year we would do the six bills that are tough, and then the next year we would do the six bills that are easy. Then we would actually be able to look at those individual items, and then a lot of these things that come up on the floor as extraneous amendments to other bills wouldn't need to be done because they would be done with the spending part they are supposed to do.

So those are a few plans right there. We do have a spending problem. We don't have a revenue problem. We shouldn't raise taxes in order for Washington to spend more. We can't spend our way to prosperity. That is more people getting in the wagon and less people pulling the wagon.

Identifying a process forward for tax reform is where part of the effort for the budget conference should be focused. If done correctly, tax reform

will help to generate additional revenue through economic growth. Let me repeat that—not through new taxes but through economic growth to reduce the deficit and pay down the debt, and I am ready to make that happen.

We need to prioritize spending. Find the spending cuts that do the least harm and start there. It has worked in Wyoming. Our Governor knew he might be having an 8-percent cut in the revenues the State was going to get. So what did he do? He got ahold of all the agencies and said: I want to know what you would cut if you had to cut 2 percent; what you would cut if you had to cut 4 percent; what you would cut if you had to cut 6 percent; and what you would cut if you had to cut 8 percent.

Why did he do that? That gives him four lists to look at and he can see what that agency thinks is the most important to cut. What would be the least hurt to cut. That is exactly what they did. They wound up having to do a 6-percent cut and there wasn't a whimper. We could do that too.

I sit up nights worrying about our Nation's debt and how it will affect Wyoming children, my children, grandchildren. There is a chance to apply reasonable constraints to impossibly high future spending, but instead we get more spending and no plan to solve the problem.

America wants a plan. There is nothing as universal as that. They tell me every time in Wyoming: We have got to quit spending more than we take in. I agree. Congress should have been working on Federal spending bills and a responsible budget for months, and the Senate majority put that work off.

I could go into some things on the Defense bill. I have a lot of things here, and over the next few days I will be talking about these. But what we are going through right now is, instead of these things that are really important to the American people and will really make a difference in their lives, we are working on judges which doesn't make any difference. There are plenty of judges out there already. But that is to detract us from these problems of ObamaCare and a budget. We have got to solve the real problems and quit worrying about whether the judges can be stacked in the District of Columbia so that the President can have his way. That is wrong.

Mr. President, I yield the floor.

THE PRESIDING OFFICER (Mr. MURPHY). The Senator from Utah.

Mr. LEE. Mr. President, I first thank my distinguished colleague, the senior Senator from Wyoming, who is a good friend and a fine example to all those who know him. People from both sides of the aisle can learn and benefit from my friend from Wyoming who, as a businessman, later as a mayor, as a devoted husband and father, has served his country well and has served his colleagues in the Senate well.

His remarks on the Senate floor tonight have been especially insightful, and I have learned something from him

this evening as I do every time he speaks. He is one who reached out to me shortly after I arrived here in the Senate and has always shown to me great kindness. I have always been grateful for that, and I look forward to continuing to work with him in the Senate.

What is happening in the Senate right now is more than just an attempt by the majority to end debate on nominees. It is an attempt to shut out the American people from the political process.

President Obama and the majority party in the Senate are so dedicated to enacting their progressive agenda that they will do anything, even if it means running roughshod over the minority and ignoring the will of the people.

Our Founding Fathers drafted the Constitution to prevent this sort of thing from happening and to protect the rights of all Americans. They devised a constitutionally limited government, with a system of checks and balances, so that no one branch of government would wield unlimited power. The whole idea of this system was to prevent the excessive abrogation of power, the excessive accumulation of power within the hands of a few.

Under our Constitution, the President's representative function is to faithfully execute the law and not to make it. Congress as a whole alone makes the laws, including a deliberative Senate whose majorities reflect minority views. Senate Democrats' recent actions are an assault on republican institutions and on the protections that they provide to all Americans.

The current administration and Senate Democrats view the Constitution as an impediment to the enactment of their agenda. This is why the President illegally amended the Affordable Care Act—a law passed by Congress—through executive action instead of asking Congress to amend it. It is also why Democrats are willing to break the rules of the Senate in order to change the rules of the Senate so that they can more quickly, more easily confirm the President's nominees.

Make no mistake. The executive and judicial nominees we are considering will be tasked with implementing and upholding President Obama's agenda. Congress is a representative body and is the only branch of government given the constitutional authority to make laws. We represent the people. When the President illegally changes the law or when he tramples on the rights of the minority in the Senate, he guarantees that the people will have no voice and no representation. These are not trivial matters. These are not matters that we can casually cavalierly cast aside. These are matters of great importance.

We have to remember what happened just a few short months ago, when we were told on July 2 of this year that President Obama had decided to change the Patient Protection and Affordable Care Act in several meaningful ways.

This of course was a law that was passed without consensus. It was passed without any semblance of bipartisanship. It was a law that was passed without a single Republican vote. Not a single Republican voted for it in the Senate; not a single Republican voted for it in the House. All 2,700 pages of this law—a law that wasn't read before it was passed, a law that we were told Members would have to pass in order to find out what was in it—this law took effect. Over time, as the American people learned about the law's contents, they didn't grow more favorably predisposed toward the law.

The law has in fact never enjoyed the support of a solid majority of Americans, but over time its popularity has tended to diminish. Perhaps seeing this, President Obama on July 2 of this year chose to wield his executive pen in such a way as to amend that law.

He chose, among other things, to announce that although the law contains a number of deadlines, a number of start dates, that he would not be enforcing the employer mandate in the Patient Protection and Affordable Care Act. He would of course still be enforcing, as of the January 1 start date, the individual mandate. But he would not be implementing or enforcing, at least for the first year of the law's full operation, the employer mandate. Of course, he had no authority to do this. The Constitution sets in place a system for making law.

In order to become law, a legislative proposal has to make its way through the House of Representatives, has to make its way through the Senate, has to be passed by most of the people in the House and in the Senate, and then it has to be presented to the President consistent with article I, section 7, clause 2 of the Constitution before it may become law.

But of course, once it is law, it is law; and a law passed under one administration can't simply be vetoed or fundamentally altered by a subsequent President. In fact, it can't be vetoed or subsequently altered by even the same President who signed it into law in the first place. And yet, that is in some respects exactly what happened here.

The President modified the law. He was too impatient, too unwilling—too unwilling to defer to the legislative branch, too unwilling to respect the oath that he took to uphold, protect, and defend the Constitution from all enemies, foreign and domestic, too disrespectful of that very document, our founding document that has fostered the development of the greatest civilization the world has ever known. Too unwilling to defer to that document in order to follow its most basic precepts and its most basic commands.

He suggested that he needed to do this because the law wasn't ready to be implemented. He later suggested that he did this because he had to do it because, as he put it: Under normal conditions, under more ideal conditions, obviously the thing to do if you wanted

to change the law would be to go back with that branch of government charged with making the law—that branch of government which passed it into law in the first place—Congress. But, as he pointed out, these are not ideal circumstances.

No, they are not ideal. Not ideal, because he controls only one division of the legislative branch of government, the Senate. The Senate is under the control of his party and the House of Representatives isn't.

This can hardly justify this kind of blatant usurpation of legislative authority. This can hardly justify a President taking upon himself the sole task of changing legislation. It is in fact an act of legislation unto itself. Yet this is what he did by a stroke of the executive pen. This is exactly what the Founding Fathers tried to protect against, this kind of unilateral action by the executive, this kind of accumulation of power in the hands of the few—or, in this case, the hands of one person. Yet this is what he did, and he has done it on several occasions.

Some people have suggested that if what the President did was wrong, if it was unconstitutional, if it wasn't authorized by the Constitution—which it wasn't—if it wasn't authorized by an act of Congress, either the Affordable Care Act or some other statute—and it wasn't—then perhaps the courts can and should and must and will remedy the constitutional problem embodied in that act. There are some problems with that.

First of all, as we all know, not every unconstitutional act can necessarily be remedied in court. Many unconstitutional acts are themselves outside the purview of the Federal courts' ability to review. In some cases, an unconstitutional act might be something that the courts consider a nonjusticiable political question, not subject to the court's authority, or something that the courts aren't willing to wade into.

In other circumstances, an unconstitutional act might occur in a situation in which no one party is likely to be able to develop and establish article III standing in order to challenge that unconstitutional act.

In order to establish article III standing—in other words, in order to establish the right to sue in Federal court—article III of the Constitution requires that the plaintiff be able to establish that the plaintiff has suffered an injury in fact, an injury in fact that is fairly traceable to the conduct of the defendant, and, thirdly, that it is subject to redress by the authority of the court.

In this circumstance, one must ask the question: Does anyone really have standing? Can anyone really establish the kind of standing in order to challenge the President's refusal to implement and enforce the individual mandate while refusing or declining to enforce and implement the employer mandate of the Patient Protection and Affordable Care Act?

Who has standing to do that? Who has been harmed by that? One could

suggest, I suppose, that an employer might want to look into that. But when they would examine the situation, most or all employers would probably have to acknowledge that they have been given a reprieve. So employers, No. 1, are not likely to be aggrieved by it in the sense that they are not likely to feel the need to sue; and, No. 2, if they were to try to sue, it seems to me they would have a very difficult time establishing in a court of law the fact that they had suffered an injury in fact.

Who else might do it? Most constitutional scholars would conclude—probably correctly—that a Member of Congress would lack article III standing under the applicable Supreme Court precedent, *Flast v. Cohen* and other Supreme Court precedents. Merely being a Member of Congress is not necessarily enough to give a person article III standing.

So I think it is very difficult to reach the conclusion that anyone—at least obviously—has article III standing to sue.

So we cannot necessarily rely on the courts to be able to undo this constitutional damage, to be able to seek an adequate remedy in a court of law for this blatant insult to the U.S. Constitution. Even if they could, moreover, even if somebody could establish article III standing, even if somebody could come before an article III Federal judge and convince that judge that they have standing, would that Federal court be in a position to dispose of this case within the roughly 1-year period in which this provision of the law is effectively suspended? It takes a lot of time to litigate a case all the way through to completion, and I think it is doubtful whether somebody would be able to bring an action in Federal court and have it be fully litigated all the way through to judgment in the roughly 1-year period in which it would still be relevant.

If you could not get it done in that time period, then it would appear very likely that the case would be rendered moot at that point. So this, quite simply, is the kind of case in which no Federal suit is likely to be brought and if one is brought it would likely fail. So that is yet another reason why we as a Congress ought to be looking very closely at this, you see, because this is one of those many instances in which it is possible that someone can violate the U.S. Constitution, here the President of the United States, without the courts being in a position to effectively remedy that constitutional defect.

We too as Members of this body have taken an oath to uphold the Constitution of the United States. In my mind, that means doing more than simply refraining from that which the Supreme Court of the United States would obviously invalidate. To my mind, that means more than simply saying; if someone has violated the U.S. Constitution, then I am sure the courts will take care of it. We simply know

that is not true. We know that in many circumstances—and I have just outlined a couple of them—the courts are not in a position to be able to remedy a constitutional defect, to be able to remedy a blatant insult to the Constitution and an absolute violation of the Constitution's provisions.

So we need to continue to hold this President accountable when he fails, quite blatantly in this circumstance, to do that which the Constitution requires. This is a question that I think is particularly important, not only in light of how this particular act of Congress came to be, not only in light of how it was enacted and the fact that it is 2,700 pages long, that it has now resulted in 20,000 pages of regulatory implementing text but also in light of the fact that it was challenged in court; that is, the Patient Protection and Affordable Care Act was challenged in court as to its constitutionality, but it was upheld by the Supreme Court of the United States in a most unusual fashion. Let's talk about that for just a moment.

A number of States and a few others banded together and challenged in Federal court a few years ago Congress's power to enact certain provisions of the Patient Protection and Affordable Care Act. Among those provisions that they challenged were the individual mandate. The argument was Congress lacks the power asserted by Congress in the Affordable Care Act, pursuant to article I section 8 clause 3, the commerce clause, to tell individual Americans that they must buy a product—health insurance; not just any health insurance but that specific kind of health insurance that Congress in its infinite wisdom deemed absolutely essential for every American to purchase. The challenge asserted that Congress lacks this power under the commerce clause.

The lawsuit also alleged among other things that Congress lacked the power to tell States that the States had to expand their Medicaid Programs and gave the States no choice; that this, too, violated the Constitution, that it exceeded certain limitations on Congress's power because the courts have long recognized that Congress lacks the power to commandeer the States' legislative and administrative machinery in order to carry out a Federal program.

Congress has the power to encourage States, to ask States to do this, but it lacks the power to direct a State to do X or Y or Z. We cannot just tell a State to do something just because we want it to be done. We might be able to persuade the State to do something. We might even be able to fund the State, to offer funding in case a State wants to participate in a given program, but we lack the power to dictate to States that they do such a thing.

In this circumstance, the Patient Protection and Affordable Care Act was unmistakable in its clarity. It simply told the States they had to expand

their Medicaid programs in the fashion outlined in the Act itself.

So these two core pieces, these two core aspects of this judicial challenge made their way up through the Federal court system, made their way up to the Supreme Court of the United States. The Court decided these two issues, as I said a moment ago, in a most unusual fashion. Turning to the commerce clause issue, the Court addressed that issue right after addressing another issue that was sort of a jurisdictional question, an introductory question. The Court had to determine first of all, before it even got to the merits of the constitutional challenge as to the individual mandate in the Affordable Care Act—it had to address the question of whether the individual mandate and the enforcement mechanism attached to it could fairly be characterized as a tax, for purposes relevant to the so-called anti-injunction act, a Civil War-era statute that basically says that any time someone wants to challenge a tax in Federal court they have to wait until such time as that tax is actually being collected. Then that challenge is brought as against the attempted enforcement of the tax statute.

The Supreme Court of the United States, using centuries' worth of jurisprudence, looked at the language of the Patient Protection and Affordable Care Act, it looked at the manner in which it was written, and easily concluded, no, this is not a tax. This is a penalty. Because it is a penalty and it is not a tax, we, the Court, may proceed to consider the merits of the arguments brought up in this case, the merits of this challenge brought as to Congress's authority, *vel non*, to enact something like this, the individual mandate under the commerce clause. So the Court quickly dispensed with that issue and reached the merits of the constitutional question before it.

The Court then went on to conclude that Congress does, in fact, lack the power under the commerce clause, under article I, section 8, clause 3 of the Constitution, to tell individual Americans they must buy a particular product, health insurance; not just any health insurance but the specific kind of health insurance that Congress told the American people they have to buy in the Affordable Care Act.

The Court fairly easily and, in my opinion, correctly, decided that Congress lacks that power because of the fact that the power Congress has to regulate interstate commerce is meaningfully different than the power to compel individuals to enter into commerce, to regulate inactivity, to punish inactivity, to punish the failure to buy a particular product that the people might not want to buy.

You see, for a long time we had this understanding as Americans that the power given to Congress was in fact limited. We look at all the authorities granted to Congress under the Constitution, the overwhelming majority of which can be found in article I, section 8. All of these were limited and

they were limited with good reason. They were limited with good reason because that played a very large part, that played a very significant role in how and why we became a country.

We broke away from Great Britain, not just because we grew tired of having a monarch but because we grew tired of the authority of a parliament—a parliament that not only refused to grant us any representation but also a parliament that refused to acknowledge any natural limit on its power to regulate us, and it did in fact regulate us and it regulated us heavily, mercilessly. It taxed us overwhelmingly and it refused to recognize any meaningful—failed, refused to recognize any meaningful limit on its own authority.

That is one of the reasons we became our own country. That is one of the reasons the Founding Fathers put in place this system in which our national legislative body would be vested with only a few specifically listed or enumerated powers. The founding generation understood that each of those powers would in fact be limited, so much so, in fact, that James Madison described the powers given to Congress as few and defined and characterized those reserved to the States as numerous and indefinite.

During the first 140, 150 years or so of our Republic's existence, we as a people continued to recognize the necessarily limited nature of Congress's power. Much of that started to change during the New Deal era in which President Franklin D. Roosevelt, with the assistance of Democratic majorities in the House and in the Senate, pushed forward with a very progressive agenda, one that expanded not only the role of government in general but also the role of the Federal Government in particular.

Initially, the Supreme Court resisted and the Supreme Court acknowledged the fact that the powers granted to Congress under the spending clause and the commerce clause were, in fact, limited. But the more FDR and the more Congress pushed back against the Supreme Court, the more the Supreme Court seemed inclined to relent. Ultimately, we saw the Supreme Court of the United States back down in the late 1930s from its what had been previously more rigorous, more restrictive interpretations of the spending clause and of the commerce clause.

The Supreme Court ended up adopting a set of rules that would basically say that as long as Congress was acting broadly within the field of what could be loosely considered a regulation of interstate commerce, that the courts would stay away in second-guessing Congress's determinations.

The Court, starting out with a case called *NLRB v. Jones & Laughlin Steel* in 1937 and culminating in another case 5 years later in *Wickard v. Filburn* in 1942, ended up concluding that Congress may, without interference from the courts, regulate any activity that when measured and evaluated in the

aggregate, has a substantial effect on interstate commerce. Regardless of whether the discrete activity in question might actually occur entirely intrastate, Congress would be able to regulate that activity pursuant to its commerce clause authority, regardless of how intrastate that activity might be when viewed in isolation.

Under this very broad interpretation, Congress's power could, in a sense, be viewed as extending to virtually every aspect of human existence because, after all, almost everything we do when measured in the aggregate might well be understood to have a substantial effect on interstate commerce. Yet even under that broad analysis, that couldn't extend to what was being regulated in the Patient Protection and Affordable Care Act—in the individual mandated provision, which was inactivity. Remember, this is an enormous breadth that the Supreme Court said Congress could, without interference from the courts, regulate under its commerce clause authority.

In *Wicker v. Filburn* what was at issue was the cultivation of wheat. Congress adopted a statutory framework in which farmers would be severely restricted in how much wheat they could grow—how much they could produce of this or that agricultural commodity.

There was a farmer named Roscoe Filburn who committed a grave offense against the Republic. His offense did not involve dealing drugs; it didn't involve murder or kidnapping. His offense involved growing too much wheat.

Roscoe Filburn grew more wheat than Congress—in its infinite wisdom—viewed appropriate for any American to grow. He was fined many thousands of dollars, which during the New Deal era was an enormous amount of money because of the fact that he grew too much wheat.

Roscoe Filburn was fortunate in that he had access to some good lawyers, and his lawyers advised him on this. They represented him aggressively and competently in court. What they argued, relying on true facts, was that, yes, our client Roscoe Filburn did, in fact, grow wheat in excess of the limit imposed by Federal law, but the amount of wheat he grew in excess of the grain production limit applicable to his farm that year was grain that never entered interstate commerce.

In fact, it never entered commerce at all. You see, that grain never even left Roscoe Filburn's farm. He used it on his farm to feed his family, to feed his livestock, and he held on to the remainder of it to use as seed for a subsequent planting season.

In a very real sense that wheat was not part of interstate commerce at all. Nevertheless, the Supreme Court of the United States, lacking nothing in imagination, said that even that wheat was within Congress's almighty grasp—within the all-knowing, wise reach of the Federal sovereign. What the Court

said was that the wheat grown by Roscoe Filburn in excess of the grain production quota was itself something that when viewed in the aggregate, could substantially affect interstate commerce.

In other words, if lots of farmers everywhere—just like Roscoe Filburn—grew too much wheat, even if their wheat never entered interstate commerce, the growing of all of that excess wheat would inevitably have an impact on the supply and demand and ultimately the price and availability of wheat on the interstate market. Therefore, even that wheat which was entirely locally grown and locally consumed would be subject to Congress's reach.

*Wicker v. Filburn* thus erected an extraordinarily low barrier for Congress to clear in establishing that it had properly invoked its authority under the commerce clause. Yet even that extraordinarily low barrier was high enough to stop Congress from acting pursuant to the commerce clause in enacting the individual mandate under the Patient Protection and Affordable Care Act. Thus ended the Supreme Court's analysis in June 2012 when it ruled that Congress had exceeded its constitutional limits under the commerce clause in enacting the individual mandate.

Significantly, this was only the third time in about 75 years—only the third time since *NLRB v. Jones and Laughlin Steel* and *Wicker v. Filburn*—in which the Supreme Court of the United States recognized Congress had overstepped its limits under the commerce clause. This was a rare thing for the court to do. It was foreseeable because the individual mandate in the Patient Protection and Affordable Care Act went so far beyond anything that had ever been seen before. Yet it was only the third time in the last 75 years in which that had happened.

Then something different happened—something very few people on either side of the aisle in this body or on either side of the political divide in America generally had seen. After concluding that Congress lacked this power under the commerce clause, the Supreme Court, under the pen of Chief Justice John Roberts, proceeded to analyze the government's backup argument; that is, the argument that even if, as the Court had now concluded, Congress lacked the power to do this under the commerce clause, Congress still had the power to do this consistent with its power to impose taxes.

The Court went on to conclude that Congress did have this power. Strangely, the Court also went on to conclude that is essentially what Congress had done here.

This was odd on many levels. No. 1, the Court had already concluded, as it had to conclude in order to proceed to the case—as it had to conclude in order to exercise jurisdiction over this case—prior to the implementation of the law, prior to the collection of this alleged tax, that it was, in fact, not a tax but

a penalty. It was very strange that the Court was now basically saying: OK, it is a penalty and not a tax for some purposes, but it is a tax and not a penalty for other purposes. Yet that is what the Court did.

It was also strange that the Court did this for the additional reason that Congress had considered legislative proposals in a different, earlier iteration of the Patient Protection and Affordable Care Act that would have enforced the individual mandate by means of a tax.

Congress considered language that would have done that. Congress knew, and still knows, how to enact legislative language that imposes a new tax. Yet when it tried to use that language, language that under 100 years' worth of jurisprudence everyone understands would have imposed a tax, Congress could not get the votes to pass it even in what was then a Congress in which the Democratic Party dominated both Houses.

Even in that Congress they tried but failed to get the requisite number of votes to pass the individual mandate enforced by means of a tax. They could not do it. It was therefore very odd that the Supreme Court of the United States would interpret what Congress couldn't pass as a tax in such a way as to make it a tax for constitutional purposes when Congress itself didn't have the votes to do it.

In order to pass legislation raising revenue—in other words, in order to pass legislation imposing a new tax—the Constitution requires that legislation of that sort originate in the House of Representatives. Why is this? I think most who looked at the issue would agree it has to do with the fact that the House of Representatives is the entity within our Federal Government structure that is, by design, most representative of the people.

In the Senate we have elections every 6 years. In the House it is every 2 years. From the outset the House was the body in which the people were represented because, of course, at the outset the Senate was the body in which the States were represented. That is no longer the case. We are directly elected by the people.

But it was always the case, and still is the case, that tax legislation must start in the House because it is the body closest to the people and most responsive to the needs and the desires and the concerns of the people. It is therefore quite ironic that this law—this tax, as the Supreme Court called it—was put into place as a tax, not by the body within the Federal Government that is most accountable to the people, the House of Representatives, but instead by the body within the Federal Government that is the very least accountable to the people, the Supreme Court of the United States.

I believe this amounted to a usurpation of constitutional authority. I believe this amounted to a betrayal of the judicial oaths of the five robe-wear-

ing men and women who signed on to that opinion. They did not have the power to legislate. They did not have the power to create a tax. They did not have the power to create out of whole cloth tax language out of penalty language—language that under a century's worth of jurisprudence, the Court's own precedence carrying stare decisis effect made clear it was a penalty and not a tax. Yet that is exactly what the Court did.

When people discover this—when they learn about and hear about it and dare to plow through the Supreme Court's opinion so they can understand what happens, they will inevitably ask: How can the Court do this? Does the Court have that power—the power to legislate, the power to impose a tax where Congress has not chosen to impose a tax? No, the Court doesn't have that power.

Then how can the Court do that? How could the Court do that? Why did the Court do that? The Court did that because it could, not because it could in the sense that it had the constitutional power to do it but because the Court has an exercise of raw political power. It chose to do so and did so.

This was a tragic day in American history. It is a day we should not soon forget and a day we should do all in our power to remedy. This decision was wrong. It was unconscionable. As a matter of jurisprudence, it was unforgivable.

The Court then went on to address the challenge related to Congress's power to compel the States to expand their Medicaid Programs. Medicaid, as we all know, is a program that is partially funded by the Federal Government but administered and partially funded by the States. In the Affordable Care Act, Congress directed the States—whether the States were so inclined—to expand their Medicaid Programs. It gave them no choice but to expand them and to expand them to a very significant degree. It expanded them in a way that would bring about not only significant costs to the States over the years but also very substantial administrative burdens as well. Yet the Affordable Care Act left the States with no choice. You must do this. Just do it because we are Congress and we are all powerful. You have to do it because we say so.

There is this anticommendation principle embedded within our constitutional jurisprudence, rooted in the enumerated powers doctrine and rooted partially in the Tenth Amendment as well. It says that Congress lacks the power to commandeer States' administrative or legislative machinery to put in place, to carry out the legislature, to administer a Federal program. The Supreme Court of the United States concluded that Congress had violated this anti-commandeering principle in passing the Patient Protection and Affordable Care Act, and in doing so in a way that left the States with no other alternative.

So this was the second constitutional defect in the Patient Protection and Affordable Care Act.

But, here again, the Supreme Court chose to rewrite the law a second time in order to save it. Ordinarily, what the Court would do in this circumstance—in that circumstance, after concluding that Congress had violated this anti-commandeering principle and that this aspect of the Affordable Care Act was, in fact, unconstitutional—the Court would be under an obligation to go into what is called severability analysis, to analyze whether or to what extent or in what way Congress might have intended to allow the rest of the statute's provisions to operate independently, notwithstanding the unconstitutionality of the provision deemed invalid by the court. In this case, quite steadily, the Supreme Court engaged in no such analysis. It never reached the severability question, even though it had been the discussion of extensive briefing and conversation and oral argument.

The Supreme Court didn't get into severability at all. The Court decided it just didn't need to. It didn't need to because the Court rewrote the statute in order to make it constitutional. The Court wrote into the law a carve-out provision. It simply said, We are going to read this law as though it gave the States an opt-out provision, as though it gave the States an option of deciding whether or not to expand their own Medicaid programs.

The only problem is the text of the Patient Protection and Affordable Care Act contained absolutely no such language. We can read through all 2,700 pages of that law, and we won't find any opt-out provision such as what I just described. No, the Court created this too from whole cloth. The Court did this in the absence of any text. This too amounted to a betrayal of the judicial oaths of those who signed their names to that opinion. This too was a blatantly unconstitutional act that was an insult to the high judicial office that those individuals occupy. That too is an insult to the constitutional system, which has fostered the development of the greatest civilization the world has ever known.

We can't likely overlook crimes against the Constitution. We can't likely overlook the usurpation of authority by the few. We can't likely overlook the fact that laws—our most fundamental laws—have been openly flouted in this case, nor will we soon forget the fact that it has occurred here.

So here are all of these reasons why some of us feel so strongly, so passionately that this law started with some unconstitutional premises and has had its constitutional defects compounded over and over and over, as we have had the Supreme Court of the United States rewriting it, not just once but twice, in order to save it. We have the President of the United States rewriting it, in effect, legislating through the



stroke of the executive pen several times now, because, among other things, he says the law is not ready to implement. He doesn't have the power to legislate on his own any more than the Supreme Court of the United States has the power to legislate, any more than the Queen of England has the right to legislate for the United States of America.

The legislative power belongs here. It belongs here in the Congress of the United States, and we must exercise that power. When someone else takes that power from us, when someone else independently exercises the legislative power, we must guard it jealously. We must protect it. I don't care whether one is a Republican or a Democrat, and I don't care whether one is President Obama's biggest fan or his most aggressive critic. The office we occupy here requires us, compels us to defend our institutional prerogative as Federal lawmakers. When someone else exercises that power—a power that does not belong to them but to us—we must protect it, not because it is ours but because it belongs to those we represent. It belongs to those who elected us to serve here, those who elected us and not someone else to make the laws. Whenever—to any degree—we overlook the fact that someone else has legislated, someone not vested with lawmaking authority, we do ourselves and our country a disservice and we reflect a certain cavalier disregard for the oath we have taken to uphold the Constitution of the United States, which was put in place to make the men and the women of the United States of America free.

There is another issue related to all of this that I think we need to touch on, which is the issue of excessive delegation of legislative authority to the executive branch. In some circumstances, we have a situation in which Congress may voluntarily relinquish some of its lawmaking power to the executive branch. I say it may do that, that it can do that, but that is not necessarily saying that it should do that. Perhaps the most influential political philosopher in America's founding era was Charles de Montesquieu. Charles de Montesquieu wrote that the power to legislate is the power to make laws, not the power to make legislators. He recognized, I think, that there was a natural temptation among elected lawmakers to want to pass the buck along to someone else, to want to give to someone else the task of making law.

We do this sometimes when we pass an extraordinarily broad law and then we direct some executive branch agency to simply fill in the gaps, to effectively make the laws. The Affordable Care Act is replete with instances in which this kind of thing occurs, in which certain broad parameters are spelled out and in which we then say to this department or that department that it will have the power to promulgate rules carrying the force of gen-

erally applicable Federal law, which that same department or that same agency will then have the power to enforce.

So that is part of how we end up with 20,000 pages of implementing regulations already under ObamaCare—20,000 pages and counting—because we have a lot of instances in which we have delegated de facto lawmaking power. That too presents its own kind of constitutional problem—not necessarily a constitutional problem that the courts are inclined to recognize, but a sort of constitutional problem nonetheless, because the more we delegate de facto lawmaking power to an executive branch agency, the less we see that anyone is accountable to the people for our laws.

One can imagine, for example, if taken to an extreme, what this could look like. Let's suppose one day we just decide we are tired of debating and discussing and voting on and having to pass laws that are controversial, laws that are specific, laws that require us to get our hands dirty, laws that require us to make difficult decisions, so, once and for all, we are going to pass a law that everyone can get behind. It will be called the law of good laws. A law that says we shall have good laws and we hereby delegate to the herewith created U.S. Department of Good Laws the power to make and enforce good laws. We then pass that and we give this Department of Good Laws the power to issue regulations and to enforce those regulations. This is actually not all that different from what we do all the time and what has been done under ObamaCare to a very significant degree—about 20,000 pages of regulations so far, and that is still building.

One of the reasons this is a problem is because when the people don't like our laws, they can come to us and they can hold us accountable for laws that we may have voted to enact. They can choose to replace us with someone else, someone who wouldn't vote for that kind of law the next time they have the chance. But when the law that they don't like is not one that we have enacted but instead one that has been promulgated by an executive branch agency, the people come to complain to us and, in that circumstance, we say: Don't look at me; go to the executive branch agency; they are the ones who did it. They go to the executive branch agency, and they see that the people occupying the executive branch agency, as well mannered, well educated, well intentioned, and well groomed as they might be, are not subject to elections, so they can't be voted out. They can't be fired by the people. That is why we are entrusted with the lawmaking power. It is not necessarily that we are the best equipped in every way to do it; it is that we stand subject to elections in 6-year intervals in the case of the Senate, and in 2-year intervals in the case of the House of Representatives. It is yet another reason why we ought to be more resistant,

more concerned when it comes to enacting legislation that delegates an excessive amount of de facto law-making power to an executive branch agency.

It is yet another reason why I think we need to pass something akin to the proposal that has been introduced as the REINS Act, which would say anytime an executive branch agency issues a new rule, a new regulation deemed by the Office of Management and Budget to constitute a major rule, that major rule will take effect if, and only if, it is first passed into law by the House and then by the Senate and then signed into law by the President. Then and only then do I think we will be able to start to reclaim that legislative power which is rightfully ours, and that, more importantly, the American people will be able to hold Congress accountable for the responsibilities properly given to Congress under the Constitution. This is about allowing the people to be governed by those they choose. When we delegate excessively our own lawmaking power to executive branch agencies, we deprive the people of their right to have their laws written and enacted by men and women of their own choosing.

This is important, and it should be important to people of all political backgrounds, to people at every end, at every step, at every stage along the political continuum. This is an issue this is neither Republican nor Democratic, it is neither liberal nor conservative, it is simply American.

When we pass laws, we pass laws through democratically elected Senators and Representatives. We do not do it through nameless, faceless bureaucrats who, regardless of how well-educated and well-intentioned they may be, do not serve the people in the sense that they are not elected by the people. They are not subject to reelection. They are not subject to dismissal by the people.

We must hold that power here. That power belongs to us, not to bureaucrats. It belongs to us, not the President. It belongs to us and not to nine Justices wearing black robes across the street in the Supreme Court of the United States.

These are some of the things that are at stake. These are some of the reasons it is so significant that we have this prolonged, protracted effort by the President of the United States to usurp power that is not his own. We must not facilitate the President in his ongoing effort to aggregate power, to accumulate power within the executive branch of government that is not his own.

That is why we need to stand up to the President. I am against some of these nominees he has pushed forward again and again and again trying to trample over the rights of the minority. We have to do that. We have an obligation to stand up to the President, especially because he is taking power that is not his own, and he is doing it, among other things, to move forward with ObamaCare, a law that a majority



of the American people have never approved of and a law the American people are growing steadily more against every single day.

I see my time is expired.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. BARRASSO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Kaine). Without objection, it is so ordered.

Mr. BARRASSO. Mr. President, the matter before us is that of a nominee to be Commissioner of the Equal Employment Opportunity Commission for a term expiring July 2018. This nominee was asked to serve as a Commissioner by President Obama and was confirmed by the Senate by a voice vote in December 2010 for a term ending July 2013. While her term expired at that date, she can continue to serve until the end of this congressional session, December 2013, so she is still in the position, continuing to serve.

I have gone through her entire biography, and I would have some questions if I were to have an opportunity to visit as a Senator today with this nominee to be Commissioner of the Equal Employment Opportunity Commission. I would like to ask the nominee if she is willing to forgo Federal employee insurance, which she currently has, to go onto the insurance now forced upon most of America through the President's health care law. Would she, who is now seeking nomination and seeking confirmation, be willing to do what Americans are being asked all around the country to do, people who received letters that said: Sorry, your insurance isn't good enough. Sorry, you can't keep your insurance regardless of what the President may have promised. What would this nominee say? Is the President's health care law good enough for her? Is what the President is promising to Americans good enough for her? I shouldn't even say "promising"—offering, if they can get it, depending on whether the Web site is working on a given day, whether they can afford it, whether they want it, whether it works for them. Is this something this nominee would think is a good idea for her?

Because, of course, she is in position as Commissioner of the Equal Employment Opportunity Commission, I would like to ask the nominee regarding her views of employers who are being forced to change health care plans offered to their employees as a result of the Democrat-mandated and passed on party-line votes Obama health care law. What are her views on employers being forced to change health care plans offered to employees because of what this Senate body did?

I would also like to ask the nominee whether she believes an employer who requires some of his or her employees to join the exchange and is OK about exempting other employees—whether that would be a violation of the Equal Employment Opportunity Commission laws. Does she believe an employer who requires some of his employees to join the exchange while exempting others—would that be a violation of the laws. That is what the majority leader of the Senate has done. Do the laws not apply to the majority leader? Can he decide one way or the other?

We have heard his explanation. I know the Washington Post gave him three Pinocchios, meaning there is a considerable amount of untruth in his explanation. But what about this nominee before us today?

I would also like to hear her thoughts regarding whether people in power should have the right to change rules at any time in a manner that restricts the rights of those whom the rules were intended to protect because that is what has happened on this floor of the Senate in the last couple of weeks. A group broke the rules to change the rules in a way that has denied the minority rights that had been protected for centuries. So I would be interested in hearing what the nominee has to say about that.

It is interesting because the facts that have been brought forth on the floor by the Senate majority leader regarding the filibuster have actually been described as fraudulent: "Democrats' Filibuster Fraud."

On November 21, majority leader HARRY REID broke his promise not to employ the nuclear option when he and Senate Democrats eliminated the filibuster on nominations. They did so based on what Senator HATCH once described as a "filibuster fraud." ORRIN HATCH, a longstanding Member of this body, probably knows the rules better than any.

I believe they did it in an attempt to divert attention away from this ObamaCare nightmare—people faced with higher premiums, canceled coverage, people finding out they can't keep their doctor, fraud and identity theft which is going on even until today and I think is going to continue to get worse in the future, and higher copays and deductibles.

One of our Senate colleague's staffers was trying to sign up for insurance on Monday, I understand was on a Web site that pretty much looked identical to the government Web site, and what he found was it took him to a page where they asked for his bank account number and his PIN number. I think everyone agrees that is not part of the health care Web site. This is a staff member who works for the Senate and found himself taken through the computer—I should say the broken Web site, easy to maneuver and manipulate—it took him to a page asking for his bank account number and his PIN number.

He then called the help line, spent several hours on hold waiting to talk to people, and they said: Just get off of that Web site. The folks he was talking to even seemed surprised to know that he logged in to what he thought was the correct Web site and what looked identical to the government Web site, but yet there was a problem there.

So I believe what we are seeing is an effort to divert attention away from the ObamaCare nightmare and ensure that the circuit court of appeals will be a rubberstamp for the President's agenda. And what has happened? The Washington Post looked at the comments by the Senate majority leader, who on November 21 said:

In the history of the Republic, there have been 168 filibusters of executive and judicial nominations. Half of them have occurred during the Obama Administration . . .

The Washington Post, which looked at it, said: Leader REID's figures confused cloture motions, which are requests to end debate, with filibusters, the response to those requests.

So just making a request isn't a filibuster; it is actually making a filibuster response to the motion.

They said: This was despite the clear admonition of the June Congressional Research Service Report that cloture motions don't correspond with filibusters.

Apparently Senator REID did not have a chance to read that or wanted to ignore it. It didn't fit the scenario or the story that he was trying to weave. They went on to say:

Since the majority leader files nearly all cloture motions, Senator Reid himself created the very statistic that he relied upon to force a rule change.

Senator REID himself by filing all these cloture motions, he is the one who created the very statistic that he relied upon to force a rules change.

Many of these, the Washington Post reports, were clearly unnecessary. In fact they say 32 percent of all cloture motions in the past 4½ years were withdrawn before a vote. Even the fact checker of the Washington Post rejected the majority leader's claim. They said:

But we especially find it hard to get past CRS's admonition that the data in its report should not be used to calculate the number of filibusters, as Reid's office has done.

They have given him a couple of Pinocchios on that one too. It is fascinating that the majority leader of the Senate receives Pinocchio after Pinocchio in the Washington Post for continuing to distort or tell his version of a story which is just not true at all.

I believe all of this is in an effort to distract people from all of the issues that are damning and hurting the President's standing in the eyes of the American people.

It is interesting. You do not have to go too far back in the newspapers. You just go to Wednesday, December 11, yesterday. The Wall Street Journal, page 4, "Poll: Health Law Hurts president Politically."

The American people know this is the law that the President forced through, a party-line vote, in the middle of the night, Christmas—and it looks like we may be here Christmas again this year, because of an unwillingness of the Democrats to work together to accept Republican ideas, to talk with their colleagues. Let's see the subheadline here, "Obama's Job-Performance Disapproval Rate Rises to All-Time High."

The President's disapproval rate of his job performance rises to an all-time high of 54 percent. Then it says "Even As Americans Upbeat On Economy."

So the President is at an all time high of his disapproval even at a time when people from an economic standpoint believe that things are not as bad as they may be. Why is it? Because of the health care law. People all across the country—the numbers are 5 million now who have lost their insurance, gotten letters from their insurance companies saying sorry, you have lost your insurance. It might have worked well for you.

I talked to folks at home in Wyoming, a ranch family. They have insurance. It works for them. It is what they wanted, it is what they had for many years, but they found out it didn't qualify because it was not good enough. It is interesting to hear the President say better insurance. Not better for them. More expensive, more things to cover that they don't ever need. The reason they lost their insurance is because it didn't fit the President's 10-point criteria. It didn't include maternity coverage.

A woman who knows I am a doctor, knows I practiced medicine in Wyoming for 24 years—and I talked to her at the Wyoming Farm Bureau meeting in Laramie a couple of weeks ago—said: I have had a hysterectomy. She said: Doctor, you know somebody who has had a hysterectomy doesn't need maternity coverage. They are not going to have more babies.

So she lost insurance that the family has had. It worked for the family, and they could afford it. They had it included in their budget, and they lost it because she doesn't have maternity coverage, because she has had a hysterectomy. She had insurance that worked for her.

Who does the President think he is, to say that he knows better than she does, what is right for her and for her family? That is why the President is being hurt politically. It is the health law. It is the mandates on the American people. It is the President and the Democrats in this body saying: We know better than you do. We know what your kids need, we know what your family needs, we know what works in your life.

I will tell you, the President does not know. He has no idea what works for these people at home in Wyoming and that they have made intelligent choices, thoughtful choices. They know what works for them. He doesn't know

their lives, and he doesn't know their needs. His disapproval rate—not surprising to me—is at an all time high, and it is well deserved because people are being faced with not just the Web site failures, which drew attention to this, that I believe made the Secretary of Health and Human Services the laughing stock of America because of her comments and how they played forth on the comedy shows, but also and more important, because of what is below the tip of the iceberg, the higher premiums. My friend in Wyoming has found that what she needs to do in terms of the insurance that the President said she needs—it is going to cause their premium to skyrocket. She is going to be forced to buy insurance because the law says all Americans need to buy insurance. She is going to be forced to buy insurance that really they don't need, they don't want, they are never ever going to use, they cannot afford, and it is money not going to be used for other things—for books for the kids, for food for the table, for things around the house. They are going to lose that opportunity. That is what this is all about.

That is why the President's numbers have dropped so significantly. It is interesting when you go through these statistics, findings—and this is a combined poll from the Wall Street Journal and NBC news—the health care law, whether it was a good idea or bad idea. According to this poll: bad idea, 50 percent, good idea, 34 percent—50 percent bad, 34 percent good.

Then they say what is the impact of this health care law on your family? That is what people wonder about. What does it mean to them? What does this mean to them personally? Because it was interesting. On the exit polling from the Presidential election last year with Mitt Romney and Barack Obama, people across the country believed at that time that in response to the question of "cares for someone like me," Barack Obama did much better, scored much higher than Mitt Romney.

Now the President is underwater because people are saying he doesn't care about me; he doesn't know about me; doesn't care about me; is not thinking about me, is thinking about his legacy but not thinking what I am going to have to pay in premiums; not thinking about my insurance being canceled; not thinking about me not able to keep my doctor; not thinking about fraud and identity theft; not thinking about the higher copays and deductibles. Right now, in terms of the poll that was in yesterday's Wall Street Journal by NBC news, whether this was going to have a positive or a negative impact on people's lives, fewer than 1 in 8 Americans believe that this health care law is going to have a positive impact on them and their families. Fewer than 1 in 8. It is astonishing that fewer than 1 in 8 people think that this health care law is going to have a positive impact for them and their family.

Yet it was crammed down the throats of all Americans, forcing them to face

all of these issues and costs related to that. The poll shows the President's disapproval at the highest rate ever, 54 percent, going back from the time he was elected. In terms of how you look at this—start reading the article.

The federal health-care law is becoming a heavier political burden for President Barack Obama and his party, despite increased confidence in the economy and the public's own generally upbeat sense of well-being, a new Wall Street Journal/NBC News poll suggests.

Disapproval of Mr. Obama's job performance hit an all-time high in the poll, at 54%, amid the flawed rollout of the health law. Half of those polled now consider the law a bad idea, also a record high.

There was the flawed roll out and Web sites can be fixed. The Web site can be fixed—and that is why the Web site failure is only the tip of the iceberg. What has really gotten people mad is the 5 million letters, and we don't even know how many letters went out in Illinois, Ohio, Texas. We don't have those numbers yet. So the numbers of folks who lost their health care coverage that worked for them, that they liked, that number is, I believe, going to be higher than 5 million. So this is going to continue to roll out with people showing huge disappointment. I expect the President's popularity to fall even further.

I think it is going to get even worse come January 1 as people start to go to a doctor and find out that maybe they think they bought insurance through the health care Web site and find out that they actually do not have it. We have people I have talked to that have put in all the information. They spent hours, but the Web site went down. They came back for more hours but don't have confirmation yet. They really do not know if they have insurance yet. They would like to know. They would like to see assurance. They would like to have confidence their government can get something right. They do not see it now. They don't see the President doing what he promised.

The President was on television with President Clinton, at the Clinton World Summit in New York, just 3 or 4 days before the Web site was unveiled, and there was the President sitting with former President Clinton saying that this was going to be easier to use than Amazon. Cheaper than your direct phone bill, and if you like your doctor, you can keep your doctor.

Did the President really believe that or was he so detached, so disconnected from the reality of what is happening in this country that he was not even overseeing his job. This is his signature achievement. Yet it seems like he ignored the implementation process.

For those in this body who served as Governors, as chief executives of States, as the Presiding Officer of the Senate has done, you never let that happen. You might have tested it for yourself: What is it going to look like? I am curious, what happens when people sign on? How does it work? But just to push "go" and have this blind confidence that everything is going to be

fine and not know and 3 or 4 days before on a world stage saying: Oh, easier than Amazon, I think is very distressing to many people. That is why the President's performance shows such high disapproval, 54 percent. That is why, according to the Wall Street Journal poll and NBC news, the health law is hurting the President politically.

This is not just a survey of a couple of people. This survey is of 1,000 adults. It was conducted between December 4 and December 8. What it did is it found a sharp erosion, they say, a sharp erosion since January in many of the attributes of a President.

What are the attributes you would like to have in a President? What would a nation look to in a President? Attributes that say: This is what we want in our President. Honesty—that is what you would like to have, a President who is honest. Leadership ability to handle a crisis. They say that had kept President Obama aloft through the economic and political turmoil of his first term, but now it is not there anymore. The feeling about the President regarding his own honesty has dropped precipitously.

You do not want our country to have a President who the people think is not honest, but that is where we are right now. I will tell you, he brought it upon himself and he did it intentionally, he did it deliberately and he did it by looking into that camera and intentionally misleading the American people about his health care law—not just in the lead-up to passing the law but continued all the way through. What does the President say? He said if you like your insurance, you can keep your insurance, period. It was his punctuation of that sentence that said there is nothing after that. He said if you like your doctor, you can keep your doctor, period. He has continued to say that.

It was interesting, even after the whole debacle, the letters going out, so many people finding their coverage had been canceled, the White House Web site continued with a video of the President saying, "If you like your coverage, you can keep your coverage, period." If you like your doctor, you can keep your doctor, period. Is it any surprise that the American people no longer find the President trustworthy, honest? Is it a surprise, then, that the President finds that the health law is hurting him politically? Is it a surprise that the disapproval of his performance is now at an all-time high? That is what we are dealing with in this country, and yet the President continues to go forth and say, are the Republican ideas?

We have had idea after idea. We tried to visit with the President about those ideas. He wants to hear nothing. He wants to hear nothing. He wants his talking points and he doesn't really have a clear understanding of what damage he has done to America with this law that has hurt so many families across the country and continues to

cause pain and suffering and anxiety, and as a result anger, and as a result the health law hurts the President politically. Those are the issues that are in front of us. Those are the issues that are in front of us.

I have a letter from a gentleman who lives in Cody, WY, that I want to read and share. This came in a couple of days ago online.

For the most part people in Wyoming know me as Dr. BARRASSO. I have treated many of them. I have been involved with the Wyoming health fairs and taking low-cost blood screenings to people all around the Cowboy State. I still attend the fairs and visit the small communities. We did a poll there about why people go to health fairs. The No. 2 reason they go is for their health, and the No. 1 reason is to socialize and see other people in their community.

I know the Presiding Officer has seen similar things in his home State when he goes to activities that people go to, and they want to see one another.

This email is by a gentleman who wrote to me and knows about my activities at the health fairs and as a doctor.

He said:

Just got a quote from my insurance agent on Obama care insurance. From \$860 I currently spend per month for my family of 4, to \$2,400. All with the low deductible of \$10,000 per person per year.

That is the other issue: Higher copays and deductibles. This is a big part of what is happening with this health care law. I mean, it is interesting.

This is Monday's Wall Street Journal, dated December 9: "Deductibles Fuel New Worries of Health-Law Sticker Shock." That is what my friend from Cody, WY, is finding after being hit with the higher deductibles.

I will share some of the things the Wall Street Journal said and then get back to the letter from my friend in Cody.

It says:

The average individual deductible for what is called a bronze plan on the exchange—the lowest priced coverage—is \$5,081 per person a year, according to a new report on insurance offerings in 34 of the 36 states that rely on the federally run online marketplace.

That is 42 percent higher than the average deductible of \$3,589 for an individually purchased plan in 2013 before much of the federal law took effect.

"Deductibles Fuel New Worries of Health-Law Sticker Shock."

Right under the article, "Health Site Snafus Plague Maryland." I understand that is a State that has their own exchange. That is not even a Federally run exchange. When the President says the States are doing such a great job, and if we let the States do all of these things, we wouldn't have all of these problems. Maryland is having huge problems, as are quite a few of the States.

Getting back to the letter written by this gentleman from Cody, WY, who was hit with an incredibly high deduct-

ible—higher than the average. The average is over \$5,000, which is higher than it was last year for people around the country. He said:

I'm not sure what planet they think I live on, but there is no way I can spend more than ½ of my monthly income on insurance. For the first time in my adult life I will soon be without insurance.

What does President Obama have to say about that? How does the ObamaCare health care law—I thought it was written in a way that people would get insurance, not lose insurance. Wasn't that the purpose of this? This gentleman said this is the first time in his life he will be without insurance. Why? Because of the law.

He said: "What does it matter if my 18-year-old children can stay on my insurance plan if I can't afford to keep one?"

I mean that is the big talking point on the other side of the aisle; young people up to age 26 can stay on their parents' health care plan. I think it is a good idea to allow young people to stay on their family's insurance plan. Of course the President tends to add in that it is free, and it is not free. There is a cost to that. I think it is a good idea to help with families.

As this gentleman from Cody, WY, says:

What does it matter if they can stay on the insurance plan if I can't afford to keep one? Also all the air time to pre existing conditions are meaningless if I can't afford to keep a plan.

I feel greatly blessed to have the good paying job that I have. It puts me above the pay level that would allow me to get any subsidies.

He has a family of four and can't get subsidies. He said: "By the way, with the system in place this year, I wouldn't have needed subsidies." With the current system he wouldn't need subsidies, but when he goes from \$860 to \$2,400, he can't afford it even though he doesn't qualify for subsidies. Yes, we see the genius of the Obama health care law by ignoring what happens in real people's lives.

I think it is interesting to see that the people who wrote this law wrote it behind closed doors. I know the President said this evening he was not a Member of this body at the time, but it was written behind closed doors through that door of the Senate. The people who knew the most about what is in that law, they seem to be the very people who have been excluded by the majority leader from having to live under it. Those are the people who got the exemption, and they are the ones who know what is in it.

It is so ironic that the majority leader of the Senate would say that his people who helped to write this law don't have to live under it. The Washington Post calls him on it. Yet the rest of America has to live under what is not good enough for the majority leader's own staff. It is ironic and sad to see a day like this come to our country.

As this gentleman says, he has never needed to have subsidies before. He

said: "I have never needed them in the past and would like to continue to never get a handout from my government." This is an independent individual. He doesn't want a subsidy. He is not asking for a subsidy. He just wants the insurance that worked for him and his family for all of these years, and now he has no insurance.

He said:

I employ about 35 people with my company. When we first opened about a year and ½ ago we were talking about getting some sort of coverage. It became very clear that we will not be able to do this . . .

They have 35 employees, so under the 50, but still wanted to do the right thing. He wanted to give people coverage. He said:

It became clear that we will not be able to do this, and have stopped any of our plans to provide this in the future. We also know for sure that we cannot afford to ever employ more than 50 people as we continue to grow, there is an upward limit on how many people we will hire.

That is as a result of the law and not because the business is not there and not because the economy won't support it. It is not because they don't want to employ more people, and not because they don't want to help their community. Because of the health care law, they are putting a cap on the size of their business.

He said:

Simple economics, Obamacare is a job killer in Wyoming. It has never been easy to be in business, that is part of the fun of being successful. It is discouraging when our federal government limits the American dream for everyone.

The Federal Government is limiting the American dream for everyone. He said: "I am thankful for your efforts, but from my office chair in Cody, it is already too late."

I know I am not the only person in this body who is getting letters like this. I know people who actually voted for the health care law are getting letters like this. I am not sure what kind of responses they are giving them. We call these people. The staff has worked with them, and I visit with them when I get home on the weekends to listen to folks.

But when we look at that sort of letter and that sort of well thought out rational approach from somebody who is working and has had insurance their whole life, that provides for his family and builds a business in a community, hires people, wants to provide insurance and now says: Not going to provide insurance, going to limit our growth, and my family loses insurance—why? It is because of a health care law that I think the President—I don't know if he had any idea of what the impact of this was going to be. We came to the floor on this side of the aisle day after day and week after week talking about why when you read the law, it is a real problem. We talked about why the concerns expressed by the American people should have been listened to but regrettably were not listened to, and why I think it is a ter-

rible mistake and very harmful to the American people.

It is not just the Web site. It is the higher premiums that my friend from Cody is hearing about because his coverage was canceled because it wasn't good enough according to the President.

We will get to whether he could keep his doctor or not in a second. We have talked about higher copays and higher deductibles, and those are the things we are facing now in this country. People are noticing them around my State and all around the 50 States. Doctors are noticing it.

I was in my medical office last week talking to some of my colleagues—my former medical partners. They are being swamped right now with folks coming in for care. This is not just in the middle of Wyoming. This is all across the country.

I talked to a surgeon yesterday on the faculty at Duke University. He had the same story there. So we are seeing it east and west and north and south. Doctors' offices are being swamped with patients who have insurance now.

The President's health care law was to make sure that more people got more insurance and coverage after the first of the year. These are people who have insurance now and are afraid they will not have it after the first of the year. They don't know if they will have it. If they had to go onto the exchanges, they haven't gotten confirmation from the exchanges yet. They are anxious about that; they are also angry.

They don't know if they are going to be able to keep their doctor, which gets to the point of "can't keep your doctor." So what they are doing is going to their doctors' offices now and saying: I have been putting this off for a while—my shoulder that has been bothering me or my hip or my knee, and I want to get it taken care of now while I know you are still my doctor. I know that I can still come to you at least until the end of the year, and I know for sure I still have insurance right now.

Hospitals, medical offices, and clinics are all being swamped by patients trying to get caught up with things they may have put off for a while. They don't know what will happen come January 1st, and I will tell you neither does the President of the United States. I think the President doesn't know what will happen on January 1.

I think he is standing there with his fingers crossed and hoping it doesn't get any worse. I will tell you. I think it will get worse with more people, with sticker shock of higher premiums, and coverage canceled. People are going to find out all across the country they can't keep their doctor.

Fraud and identity theft is going to get worse as more cases get reported, and we are going to see more and more people not being able to pay their deductibles.

I wanted to spend a second on this issue—on the whole issue of the Presi-

dent's promise that if you like your doctor, you can keep your doctor. As a doctor, there is a very special relationship between a doctor and a patient and a patient and a doctor. It goes both ways.

I think it was very telling, as well as distressing to many people, this past Sunday when on one of the Sunday news shows, Ezekiel Emanuel, Rahm Emanuel's brother, who is a professor at the University of Pennsylvania and a physician in the academic setting—one of the interviewers asked him: Was it a true statement, "If you like your doctor, you can keep your doctor?" He said: The President never said you could go to all of these other people and specialists. The interviewer said: Wait a second. Let's get back to if you like your doctor, you can keep your doctor. Ezekiel Emanuel basically said if you like your doctor, you can keep your doctor if you are willing to pay more. That is not what the President said. The President used the punctuation point, used that period at the end of his sentence: If you like your doctor, you can keep your doctor, period. Now we have Ezekiel Emanuel on the Sunday shows saying: Well, the President never really said that. But he did. He said it dozens of times.

Folks in this body have asked me about the bond between a doctor and a patient, and I think the President knew very well about that bond when he made the promise that if you like what you have, you can keep it. So I put pen to paper and had an editorial in yesterday's Investor's Business Daily—Wednesday, December 11, 2013—called "A Special Bond Deeply Severed By ObamaCare." I would like to share some of those thoughts with my colleagues today because I think that is a special bond. As a doctor, I know what that bond is like with my patients.

I write in this column:

A central architect of the president's health care law admitted this week that the often repeated promise that "if you like your doctor, you can keep your doctor" simply isn't true.

Instead, Dr. Ezekiel Emanuel explained that if you like your doctor, you will simply need to pay more to keep your doctor.

I write:

As a physician, I know firsthand how this will hurt many Americans.

Families look to doctors as trusted friends, as confidants and as counselors and turn to them for advice in making life and death decisions.

In Wyoming, patients have included me in graduations, in weddings, and asked me to serve as a pallbearer. They have asked me to pray with them, to referee family disputes, and to provide reassurance when a doctor they did not know was called in to consult.

I go on:

Norman Rockwell's painting "Doctor and Doll" tells the story.

I think people here can kind of visualize that picture.

A little girl holds up her doll as the trusted family doctor listens to the doll with his stethoscope. The caring, compassionate physician takes the time to reassure the concerned little girl.

The doctor-patient relationship is a very special bond. It requires faith and trust for a patient to allow me to cut into their body to remove a tumor, to replace a worn-out joint, to fix a broken bone, to repair a torn ligament and, above all else, to do no harm.

The President knew of the special relationship between people and their doctors. That is why when he was trying to gain support for his health care law, he made a clear and simple promise to the American people. The President said, "If you like your doctor, you can keep your doctor, period."

Now people across the country are finding they can't keep their doctor.

The same law that has caused millions of Americans to lose the health insurance that worked for them is now causing people to lose their doctors.

People shopping for insurance on government exchanges and people going to the Web site are being forced to purchase insurance for things they don't want, don't need, or will never use.

To keep costs down, many of these policies limit the doctors and limit the hospitals that patients can use.

So not just the doctors, the hospitals as well, including the Mayo Clinic and Cedars-Sinai Medical Center—they are excluded from many insurance networks.

Some of the best children's hospitals in the country are also excluded from the exchanges. This means a child with cancer—

And there have been articles about this—

may lose access to his or her doctor and the specialty hospital because of this law.

Come January 1, there are kids in this country who are not going to have the ability under their new plans to go to the hospitals that have been treating these young people.

In New Hampshire—

There are two Senators here from New Hampshire, one on either side of the aisle.

In New Hampshire, 10 of the state's 26 hospitals—

So there are 26 hospitals; 10 of the State's 26 hospitals—

are excluded from the only carrier offering insurance in the exchange.

There is only one carrier in the exchange. I remember the President talking about all of this competition. There is 1 carrier in the exchange. There are 26 hospitals in the State, and 10 of them are excluded from the only carrier that is offering insurance.

I will tell my colleagues that this next sentence is fascinating.

The head of the medical staff of one of the excluded hospitals—

This is the chief of staff of the hospital—

learned that her plan does not even allow her to seek treatment at her own hospital where she is the chief of staff.

It is unbelievable.

We take a look at that and say: How could this have happened? But that is the law that was passed, and that is the 7-foot tower of regulations that has come out from the bureaucracy.

I write:

The situation could be equally bad for seniors on Medicare.

For seniors on Medicare, if you can't keep your doctor, it is a really big deal. It is sometimes difficult for a senior on Medicare to find a doctor. If they get one and then they like that doctor, they want to keep the doctor. As we have seen, seniors sometimes move to other communities to be closer to their kids and grandkids. To find a doctor is a struggle, it is a challenge, but I think the situation could be equally bad for Medicare, and here is why, and I wrote about it in this editorial in the Investor's Business Daily yesterday:

Thousands of doctors caring for seniors on Medicare Advantage—

And about one in four people is on this program called Medicare Advantage.

Thousands of doctors caring for seniors on Medicare Advantage have been dropped from their networks. Those Medicare patients will now be challenged with finding a new doctor to take care of them.

The president's health care law is making it harder for doctors as well as patients.

It is not just the patients; it is very hard for doctors.

Doctors know their patients' health history, they know their families, they know their lives. Doctors value the personal relationship as much as the patient does.

That's why people become doctors in the first place—to take care of their patients.

In my graduating class, the way we felt about it—and I was invited back to speak at the commencement. I think it was about the 30th year after I had graduated that I got invited back as a guest speaker, talking to those medical students who were graduating. That is the same reason people continue to go into medicine. They want to take care of patients. They are intellectually stimulated and challenged by all the new advances, but people go into medicine to take care of their patients.

In this editorial, I say:

Even if someone is able to keep their doctor, they won't necessarily be able to spend as much time with that doctor as they might like. That's because nearly two-thirds of the doctors expect to spend more time on paperwork under the requirements of the new law.

So doctors are going to have to spend more time on paperwork. Some of this is done with computers, with electronic medical records, but there are still paperwork-keeping activities. It is interesting because so often doctors have the computer in the office with the patient, and patients feel the computer that is mandated under the health care law is interfering, with the doctor looking at the computer screen rather than looking at the patient. So this is all having a significant impact.

I conclude by saying:

This is not at all what the president promised. People all across America put their faith and trust in Barack Obama when they elected him President.

It's the same kind of faith and trust they have in their doctor. When patients lose trust in their doctor—or citizens lose trust in their president—it is extremely difficult to regain.

That is why—going back to yesterday's Wall Street Journal: "Health

Care Law Hurts President Politically"—the disapproval rate has risen to an alltime high of 54 percent. Fifty-four percent disapprove of the President.

I go on to say in this article, which is what happens:

I continue to hear from my patients in Wyoming. They have always had my home phone number. They are anxious. They are angry. They call me at home. They know what they wanted from health care reform. What they wanted was access to quality, affordable care.

That is what the President talked about in his speeches, but that is not what he delivered in his health care law.

That's not what they got with this law. Now, many face losing the doctor who has always been there for them.

If President Obama wants to regain the trust of the American people, he will sit down with Republicans to deliver reforms that will help all Americans and fully protect the doctor-patient relationship.

After all—

And I hear this at home in Wyoming—

President Obama has his own doctor at the White House who is dedicated to his care. I'm sure he values that relationship just as much as other Americans value their relationship with their doctor.

So that is what I felt when I wrote this article called "A Special Bond Deeply Severed By ObamaCare" in yesterday's—December 11—issue of Investor's Business Daily, that people can't keep their doctor and there are great concerns about that, and they are being impacted in so many ways.

It is interesting. Since this health care law passed, I have come to the floor just about every week with a doctor's second opinion about the health care law to talk about ways that I felt this health care law was bad for patients, bad for doctors and nurses, physician assistants, and others who take care of patients, and why I thought it was terrible for the taxpayers. But it seems that in recent weeks we can pick up any newspaper and there is a story basically saying this law is bad for people.

This is the New York Times, and they support the law. This past Monday, Robert Parry, a well-known journalist who writes frequently on the topic of the health care law and on health exchanges, said:

Premiums may be low, but other costs can be high. For months, the Obama administration has heralded the low premiums and medical insurance policies on sale in the insurance exchanges created by the health care law, but as consumers dig into the details—

Which is something I was asking for on this Senate floor a number of years ago when the law passed: Will the Democrats please dig into the details to see what impact this is going to have on people in terms of higher premiums, in terms of canceled coverage, in terms of trying to keep their doctor, in terms of higher copays and deductibles, in terms of people on Medicare trying to find a doctor to take care of them.

As consumers dig into the details, they are finding that the deductibles and other out-of-pocket costs are often much higher—

Often much higher; not a rare case—than what is typical in employer-sponsored health plans, which says that the exchanges are not going to be helping many people.

I found it interesting—talking a little about people not being able to keep their doctors but also not being able to keep their hospitals—why is that? I think we are seeing a number of these exchanges and policies being offered. They realize that the people who go to certain hospitals have more serious conditions, likely more expensive, and as a result don't include those hospitals.

In the Financial Times this week, "Healthcare insurers cut costs by excluding top hospitals." This was Monday of this week, and we are seeing this week after week, which is why I have been coming to the floor with great regularity to share with this body what people across the country are seeing.

It says:

People buying insurance plans under "ObamaCare" will have limited access to some of the leading U.S. hospitals, including two renowned cancer centers, as insurers try to cut costs.

There is a picture of MD Anderson Cancer Center at the University of Texas. It says the plan will not cover treatment at the Houston cancer center. I didn't even get into that in my article. I talked about pediatric hospitals, and I talked about New Hampshire hospitals. But we are talking about major cancer hospitals that are not included in the exchanges for the most part, and that is what we are seeing all across the country. You can kind of compare it to what kind of car you could buy. What kind of coverage can you get. But the bottom line is people were misled by the President and people feel deceived by this President.

Tuesday's Washington Post: "Under health law, insurers limiting drug coverage." "Costs may soar for those with HIV, other ailments." This is not on the back page. This is on the front page of the Washington Post. This is all as a result of what the Democrats, in a party-line vote, passed and forced upon the country.

That is what is going on here. We have a health care law that people are very uncomfortable with, and they are going to continue to let the President know that, which is why he is being hurt, his disapproval is the highest ever, and what has been sharply eroded are folks' belief in this President's honesty and his leadership ability to handle a crisis.

This is a crisis for the President. This is a crisis for the country. What is the President doing about it? He is blaming the Republicans for a law that passed with no Republican votes. He is blaming the Republicans for an idea that was his and was forced through on party-line votes, without Republican input, written behind closed doors,

right through those doors over there, by people who have now been excluded, do not have to go under the health care law. Yet in the Washington Post: "HARRY REID's explanation for why not all of his staff is going on 'ObamaCare'"—and the big three Pinocchios. Remember the story of Pinocchio, the boy whose nose grew whenever he told falsehoods. That is what the Washington Post has to say about the majority leader of the Senate in not making all of his employees live under what the rest of the country is having to deal with right now.

I think it is very distressing. That is what we are facing. The country is facing higher premiums. Are people going to not have Christmas because they are, instead, having to use that money to pay their January premium? Are they going to not pay the January premium? How does that play into all this? Are they going to decide: I don't think I am going to have insurance, like my friend from Cody who wrote to me, who has had insurance all of his life but not now.

We have a Senator from Wyoming, the other Senator, the senior Senator, MIKE ENZI. He was one who was also sounding the alarm during this entire debate. He saw the impacts beforehand. It was interesting. There was a letter to the editor in the Powell Tribune, a newspaper in Wyoming, that talked about what we saw coming with this health care law. It was written by someone from Gillette, a Marion Scott. The headline is: "ENZI saw ACA impacts beforehand. . . ." It says:

Dear Editor:

Fox News had a very interesting and informative program Tuesday evening Nov. 6 on "The Kelly Files with Megyn Kelly."

As anyone who watches Fox News knows, they are covering the beginning effects of the Affordable Care Act, also known as ObamaCare, as it is being implemented. Megyn Kelly began her program stating she had a special guest who had predicted three-and-one-half years ago almost exactly what will happen when the Obamacare law goes into effect this October.

Her special guest was our own Wyoming senior Senator Mike Enzi and he had made his predictions in a speech on the Senate floor three-and-one-half years ago. He was then called a fearmonger and radical right-winger.

And he was. That is what they called him, as Senator ENZI went to the floor because of his concerns that you would not be able to keep your insurance. He had actually read the Federal Register, saw the regulations that came out, and he said: Millions of people are going to lose their insurance. He said it from right here at this desk over here. He came to the Senate floor. He said it 3½ years ago, and those on the other side of the aisle voted against Senator ENZI's proposal that would actually let people keep their insurance. It was the regulations regarding grandfathered insurance policies, that people would be able to keep their policies. That was the vote. Those on this side of the aisle all voted to allow people to keep their policies because that is what the Presi-

dent promised them. Folks on the other side of the aisle voted against Senator ENZI's proposal.

But those on the other side called Senator ENZI "a fearmonger and radical right-winger."

It says:

Senator Enzi was probably one of a very few elected officials who had actually read the bill.

Senator ENZI, it says, was one of the few elected officials who actually read the bill. I believe that. Who can forget NANCY PELOSI saying: First you have to pass it before you get to find out what is in it. That video has been played and played again and again. I believe that many of the people who voted for it never did read it. I believe they did not read the bill. I believe they did not really understand it, and part of it is, I believe, they actually believed the President when he said: If you like what you have, you can keep it. If you like your insurance, you can keep it. If you like your doctor, you can keep your doctor. So they took this as an article of faith.

I read the bill. Senator ENZI read the bill. I know a number of our Members who read it were very concerned and came to the floor and spoke about different parts of the bill. I can remember Senator SUSAN COLLINS standing here with her sign about the impact on small businesses and how detrimental it was going to be. I remember Senator Olympia Snowe down here on the floor focusing on how it was going to impact businesses in Maine. Yet all of these concerns that we raised, which are now coming home to roost today, were ignored on the other side of the aisle.

This woman continues and concludes by saying:

With this kind of representation in the Senate I would ask Wyoming voters this question. Is now a good time to send a new Senator to Washington and lose this experience and seniority?

I will tell you, I am proud to stand with Senator ENZI, and he saw it coming. He saw it coming 3½ years ago with the amendment on the Senate floor. We voted that way, and the Democrats voted essentially to confirm that people would lose their insurance. They were not going to be able to keep it even if they liked it.

So these are the problems that continue to plague the health care law, continue to plague folks all around the country, as they are trying to deal with something they never anticipated. You kind of think a year in advance: What is going to happen with our kids? What is going to happen? Are we going to need to do something with the car? Patch a hole in the roof? How do we kind of budget for the year? I will tell you, my friend in Cody, WY, never ever saw it coming that he was going to have to go from \$860 a month to \$2,400 a month for health insurance.

We know that at least 5 million people have gotten letters that they have lost their insurance. For them, I do not think they are going to find it is going



to be a very happy holiday season, a very Merry Christmas. I think they are going to be trying to figure out: Do I have insurance or do I go without it, as what is going to happen with my friend there. Those are the things we are looking at.

Then, of course, there is the Web site. It is just interesting. This is an article in this week's Jackson Hole News & Guide in Jackson Hole, WY. "New health care glitches plaguing Jacksonites. Marketplace insurance companies try to mail paperwork to Jackson street addresses." But they only get mail in post office boxes there.

But that is how the Web site was set up. It was not set up so there would be a separate area if you do not have a street address. They need a physical address, but in some places you do not get mail that way, in many places around the country, in certain rural American locations. But the people who wrote it, the people who did this whole thing were rather clueless about how the country works, rather clueless about what happens in people's homes, in people's families, in people's communities. I am sure they are very smart people and got degrees from advanced places but really do not have an idea of what is going on out there.

I also found it interesting that even when the President tried to tell success stories of people who may have had some success under this, it does not even pan out.

A story on CNN: "Woman Hailed by President as Obamacare Success Story Now Can't Afford Obamacare."

CNN reports that a woman the President hailed as an ObamaCare success story just realized she won't be able to afford ObamaCare because it is too expensive.

It is too expensive. This is the tragedy. This is a national tragedy, this Obama health care law. It was a self-inflicted wound on our country. No foreign enemy did this to us. The President of the United States, who gave speeches that painted a broad picture of a better world, has delivered a much worse world for folks through this legislation.

I think this is devastating to the country, to patients, to doctors, to the nurses, the caregivers, and to the taxpayers. The reason we needed health care reform in the country was because of the cost of care. That is what this was all about, trying to help people get the care they need from a doctor they choose at lower cost. That is what we were really focused on.

So we needed reform. We needed the right kind of reform—reform that actually lowers patients' costs, improves health, and protects the vulnerable. So that means more affordable insurance options. It means helping people with preexisting conditions. It means protecting quality care for older Americans. We do not have any of that with this President's health care law. This is causing costs to go up, causing quality to go down, causing people to lose their doctor. The President, time and

time again, in speech after speech, talked about providing coverage, but not providing care. As a doctor will tell you, there is a huge difference between coverage and care.

This whole thing was predicated on printing up and giving out to people Medicaid cards. Medicaid is a broken system. States will tell you, Governors will tell you, that in many States Medicaid is the No. 1 cost driver of the State. In our home State, it was No. 1 when I was in the State senate. What it meant is that money that went to that then was not able to be used for teachers or schools or students or roads or public safety officers. It is a huge cost driver.

So the issue is we needed to deal with the cost of care. The President says: Put them all in this Medicaid system. What is it? Forty percent—some high number of physicians do not want to take patients on Medicaid because in a sense the reimbursement to doctors who take care of those patients is low enough that you could not even afford to keep the doors of the clinic open if all you saw were Medicaid patients all day.

So doctors want to see and take care of everyone. The idea was to put all these additional people on Medicaid, give them Medicaid cards. But this whole health care law did nothing adequately to address the need for more health care providers. So now you have more people with so-called coverage, but it is empty coverage, it is not quality care because there are not enough people to actually take care of the patients who are now being covered. It is like giving people a bus ticket when there is no bus coming. They can just stand there, but it does not mean they can actually get care. But the President continued to focus on coverage, and coverage does not equal care.

So you take a look at the problems families face with cost and access, and what the President is trying to provide is coverage, but we have seen higher premiums, coverage canceled, which is coverage that worked for many people. Some of these are now being forced into trying to find something. People are losing their doctor and have higher out-of-pocket costs, higher copays, higher deductibles.

You read some of these stories of somebody saying: If I have to pay all this every month, why should I even sign up? Why don't I just pay the fine? Why should I pay all this every month and then have such a high deductible when I am never going to use that much care. Maybe they never will use that much.

So the logic behind this whole thing is baffling to many who have kind of ignored it, I think until now, until October 1 when the Web site went live and subsequently crashed repeatedly. But now they are saying: Hey, I have lost my insurance. That has been the real fracture point, when people see they have lost their insurance that has worked for them. To replace it is going

to be something that does not work as well for them and their families and is going to be more expensive.

So we see the public reaction to the law. It is a reaction related to the premiums, related to trying to use the exchanges, and related to whether employers stop hiring, which we have seen from my friend in Cody, WY. We have seen the issues of reduced work hours because there is the regulation, if you are working more than 30 hours a week you get counted toward that 50 employees. So many businesses have lowered the work hours for people, which affects their take-home pay.

The President had some thoughts on that. He said we will just delay the employer mandate for 1 year. That is the mandate in the law that everyone has to—at work they have to supply insurance to the employees. The President may have had some idea that things were going to get sticky for him and he was going to become a little more unpopular with the individual mandate. So he pushed off the employer mandate for 1 year, unilaterally. When is the law the law and when is the law something that the President can take a page out, throw it away and say: Well, we will move that back a year. It has happened about 14 times in this law.

Even when the House tried to give the President authority to do what he did, the Democrats blocked that. It is astonishing. What about the individual mandate? We are going to be fining people—the government. The President is going to be fining people; whether it is a fine, a tax, a penalty, depending on how the Supreme Court states. That is going to go into effect January 1.

The people may not even be able to buy the product they are being fined for not having come January 1. So is the President going to delay the individual mandate as well? There was a vote in the House, a number of people voted with bipartisan support for that. I think it is going to be challenging in the days ahead for the President to get ahead of the situation the country is facing.

The newest numbers were out yesterday with the sign-up. The Associated Press reported on that:

Health care signups pick up the pace in November playing catchup with a long way to go. President Obama's new health insurance market last month picked up the dismal pace of signups, the administration reported Wednesday. Employment statistics showed 364,000 people had signed up as of November 30 under the health care law. Although that is more than three times the October total, it is less than one-third of the 1.2 million people officials had originally projected would enroll nationwide by the end of November.

So crunch time is coming. Consumers who are afraid they do not have insurance, they have until December 23, if they want to keep their coverage January 1. But as I said earlier, that is why we are seeing so many people across the country who do have insurance going to doctors now—the doctor they know, the doctor they like—to take



care of problems that may have been kind of put on the back burner but that they would like to have taken care of now because they are not sure what is going to happen January 1: not sure if they are going to be able to go to the same doctor, not sure if they are going to be able to go to the same hospital, not sure if they are going to be able to have insurance, even though they think they may have insurance. Those are the things the American people are facing.

So as we come to the floor to discuss this nominee, the number of questions I have are those related to what she would think about employers changing things, people not signing up, others being forced to sign up; should she have to live under the law of the land as a government employee, when the Senate majority leader says, well, his people—some of his people do, some do not. These are questions one would expect to have answered. I know we are going to vote on that nominee in a couple of hours. But I think this is something the nominee should be thinking about as we take a look at this health care law and the devastating impacts it is having on people all across the country.

Take a look at what is happening for consumers, people who do not work in Washington, people who do not live in Washington. What you see is that the costs are going to be crippling to them. I stand here amazed that that gentleman from Cody, WY, tripled the cost. I do not know that everybody is going to face that. But the President promised that costs would go down. He promised his health care reform would save American families I think he said \$2,500 per year by the end of his first term.

I remember—and I have seen the reel of him saying it—fifteen times he said that. Your insurance premiums will go down by \$2,500 by the end of the first term. Go down? They have gone up significantly, thousands of dollars. They have gone up. This is as he was a candidate running for President. He promised his health care reform would save American families \$2,500 by the end of his first term.

But for many Americans it is driving the premiums way up; in some cases doubling them, in some cases tripling them. It is happening on the exchanges. It is happening for people who are trying to shop not on the exchanges but if they have lost their policy and have to start paying for a lot of other things, whether it is pediatric dental care, pediatric ophthalmology care. All of those things drive up the costs.

That is the sticker shock of the health care law. So as people continue to learn more about the law, they are going to continue to become more and more displeased, which is why I think we are going to go back to this headline: "Health care law hurts President politically." I know for people in this body that is a big deal. For the President that is a big deal, because the last

time I had a chance to speak face to face with the President, he was taking a lot about polls.

But as a doctor, I am more concerned about how the health care law is hurting people's health, hurting their families, hurting their families economically, hurting the help they need, the care they need, interfering with life choices, impacting their quality of life, costing them in terms of disposable income in terms of money they could use for other things, and it is all because of the health care law.

I am going to continue to come back to the floor on a regular basis to talk, not about the Web site failures because that is just the tip of the iceberg. I expect that the Web site is going to get fixed. It is going to take them a while. It is going to take them a lot longer than they ever suspected, because the day it happened, they described the Web site problem as being a result of heavy traffic. We know on that same day, worldwide, many Web sites had much more traffic. The site broke down with I think less than 1,000 people logging on.

But they said it would be fixed almost immediately. It was not. Here we are. They said it would be fixed by the end of November. So they gave themselves 2 months. It was not. Somebody testified not too long ago in the House to say the back end has not been built, there is 30 to 40 percent of it which has not even been put together.

Ultimately the Web site will get fixed, but the higher premiums are going to continue, people trying to buy insurance for their family that meets the criteria the President has set out which is not based on criteria that works for families or necessary for families. It is just these 10 things government has decided that they think they know what is best for families, when I think families know what is best for them and what they would look for with health insurance and health care.

So we are going to continue to face higher premiums. People are going to continue to have their coverage canceled. It is not just the individuals. Next year when the employer mandate goes into effect, when businesses are forced to make a decision: Do I try to buy health insurance that meets all of those high demands that government says has to be included? Do I meet all of that and face these double or triple higher premiums or do I say just go to the exchanges?

People who work, will they lose their employer-based insurance? I think we are going to see more and more of that. Even the Congressional Budget Office, which took a look at this health care law, said it will happen. They said there are employers who will no longer provide insurance who are providing it now. There are different numbers from different assessments as to how many people are going to be forced off their employer-based insurance, how many folks will lose it. I do not know. I have

seen different ranges. But it starts in the low millions and it goes into the tens and twenties and thirties of millions and even higher than that.

So those are the folks who will be losing and having their coverage canceled. Then will those people be able to keep their doctor? The answer there is many will not. Many will not. Many of those who have lost their insurance now are not going to be able too keep their doctor, even if they want to, and even if their doctor wants to keep them.

Doctors do not even know if they are going to be included in a number of these exchanges. They cannot find out, when they go and look and try to see if they can get on the Web site, where are they covered, where are they not included? This has been so poorly thought out and so poorly executed. It has left patients in the lurch, it has left hospitals in the lurch, and it has left doctors in the lurch.

I am astonished that all of those people still have the faith and confidence in the President, which is probably another reason why people do not look to the President now as having either honesty or leadership ability to handle a crisis—to see such a precipitous drop in the view of the President's ability to handle a crisis. Because if they cannot get this right, what happens in terms of a national disaster? How could he respond quickly when he had 3½ years to put together a Web site that apparently he paid very little attention to?

So we are looking at the higher premiums, the canceled coverage, cannot keep your doctor, the higher copays and deductibles are going to continue to plague this country and people. I know people on both sides of the aisle are going to get letters to this effect.

I know the Presiding Officer, when he goes home every night to his home State, hears from people. You stop and fill up with gas, you hear from people. I am hoping other colleagues of ours will actually read their mail, go home, listen to people, to see how devastating of an impact this health care law is having on their lives, their individual lives.

Will there be some people who benefit from this health care law? Oh, yes. But the pain it is causing for millions and millions of Americans is not at all what the President promised them: You like what you have, you can keep it with your insurance. Not true; insurance premiums drop \$2,500. Not true; if you like your doctor, you can keep your doctor. Not true.

So I come to the floor to discuss a nominee who very likely is not going to ever have to be living under the President's health care law, is going to go under some other health program, paid for with taxpayer dollars that those taxpayers are not going to have in their own pockets to pay for their own premiums, while she enjoys a government insurance program paid for in a different way by their taxpayer dollars, where she is likely to be able to

keep her doctor, not be subjected to the higher premiums, not be subjected to canceled coverage, not be subjected to losing her doctor, not be subjected to the fraud and identity theft, and not be subjected to the higher copays and deductibles.

I would say, if it is good enough for the people of America—that is what President Obama wanted for them—if it is good enough for Members of this body, except for those the majority leader said, oh, no, they know what is in it so they do not need to live under it, I think it ought to be good enough for this nominee as well.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. CORNYN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. HAGAN). Without objection, it is so ordered.

Mr. CORNYN. Mr. President, as we continue this week's vote-arama on executive branch nominations, I wish to remind the American people how we got here today and what it means to the future of our great country and our system of government.

Over the last 5 years President Obama and his administration have repeatedly bent the law to serve their own purposes in a way that I think is unprecedented in my experience. We saw this when he gave special treatment to union pension funds during the Chrysler bankruptcy process. We saw it again during the Solyndra bankruptcy. We saw it when President Obama unilaterally announced a moratorium on the enforcement of certain immigration laws. We saw it when the administration unilaterally issued waivers from the 1996 Welfare Reform Act and the 2002 No Child Left Behind law. And, of course, we have seen it multiple times with the President's signature legislative—accomplishment, if you can call it that—ObamaCare, which effectively became a law that means whatever the President wants it to mean. Indeed, without any real legal authority, the administration has unilaterally delayed the employer mandate, unilaterally delayed the income verification required in the ObamaCare exchanges, unilaterally delayed the cap on out-of-pocket expenses, and has unilaterally delayed other insurance regulations.

Meanwhile, the Internal Revenue Service has been hauled into court because it has said that it will flout the text of the law by issuing ObamaCare tax subsidies in the Federal exchange even though the law that Congress passed and the President signed made clear that those subsidies may only be used in the State-based insurance exchanges.

I constantly get asked by my constituents back home whether Congress

can do something about it. My response ordinarily is, well, the Congress under our system of government passes the laws, but it is the executive branch's obligation to enforce those laws. Indeed, that is the oath the President takes when he is inaugurated—to uphold and defend the laws and to faithfully execute those laws.

I think we have seen the kind of havoc that can be wreaked when the executive decides to pick and choose which laws to enforce based on expediency, political or otherwise. We used to say that we are a nation of laws and not of men. Indeed, that is one of our country's—indeed, our economy's—great strengths.

There is a great little book written by a Peruvian economist on the nature of capital, which, of course, is so important to our economic growth. The point he makes is there are a lot of entrepreneurial societies in the world, but one of the things that really distinguishes the U.S. economy and our success relative to those other entrepreneurial societies is the rule of law. It is the things, for example, that mean that when you invest money in a piece of real estate or in a contract or in some other investment, you know with reasonable certainty that investment will be protected against arbitrary action by either government or some other person, which, if you think about it, really is one of the unique characteristics of the U.S. system of laws because we know with reasonable certainty that if those rights are breached, if that investment is stolen, if it is nationalized by the Federal Government, you can go to court and seek compensation for that law-breaking.

Well, if President Obama wanted to continue to legislate in this time and effect from the White House by changing the laws Congress passed, he should have stayed in the Senate. But his responsibility—indeed, his sacred oath—is to enforce the laws even if those laws prove awkward or inconvenient.

One of the other important aspects of being a nation of laws is that if, in fact, it turns out that those laws prove inconvenient or awkward or undesirable for some reason, we have the capacity through the legislative process to change those laws. That is sometimes referred to as a conversation or a dialog that the branches of government have with one another.

So Congress passes laws that the President signs, and then if they are being implemented either by the executive branch or by administrative agencies that are part of the executive branch and they turn out not to have the result Congress thought they would have or the President thought they would have, the great thing about our system of government is we have the capacity to change those laws when they prove to have resulted in unintended consequences or when they prove inconvenient or awkward or otherwise undesirable.

I believe that, notwithstanding the greatest hopes and, I would grant, the

good faith of those who actually thought ObamaCare was going to work—it sounded pretty good. The President said: If you like what you have, you can keep it, and if you think your premiums are too high, the average family of four is going to see their premiums go down by \$2,500. And if you like your doctor, you can keep your doctor. Well, all of that sounded pretty good, especially when you looked at the public opinion polling back in 2009 when the President first started saying those kinds of things because 88 to 90 percent of the people polled said they liked what they had. So when the President said they could keep it, they said: OK; that is fine. I guess this is all about dealing with that 10 or 12 percent of people who had no coverage or who had what they viewed as inadequate or otherwise undesirable coverage.

So I understand that some people may have been lulled into this idea that this is the best thing that has happened in terms of health care delivery in a long time. As a matter of fact, we have talked about this approach for many years. Even before I got to Congress, during the Clinton administration we had HillaryCare. That was another grand scheme to basically commandeer the health care delivery system in the country that, in a way—again, I would grant the good faith of those who actually thought they could make it work, but it didn't work, at least as manifested in ObamaCare. And now we are confronted not with the grand theory and good intentions but with the hard facts and the reality that ObamaCare has proved to be an unmitigated disaster.

Whether you are one of ObamaCare's biggest cheerleaders or whether you were a skeptic like me and voted against it because you did not think it was going to work, I think it is incumbent upon us to try to figure out how to come up with an alternative, to hit the reset button and to pivot to patient-centered health care reform that leaves the choices not in the hands of bureaucrats and the Federal Government but leaves the choices in the hands of hard-working American families and patients, where doctors whom we choose and trust can work with us to come up with the best solutions rather than having the Federal Government say: We have done a cost-benefit analysis, and you are out of luck. You're not worth it. The Federal Government, the bureaucracy doesn't think you should get that kind of treatment.

Well, what I don't want is for any President, including this President, to unilaterally waive or change or refuse to enforce a law for political reasons. And that is what has happened. We have watched the President's poll numbers plummet as the American people, who by and large during his first term of office and now during the first year or so of his second term of office wanted this President to succeed—I think the fact that President Obama's Presidency was historic in many ways, as

the first African-American President ever elected in this country, gave all of us a sense of pride that our country had come so far—over, admittedly, a long period of time but so far that a person who back at the beginning of our country might have been considered less than a fully human being would now be the President of the United States. That gave us all hope in the future and hope in this great experiment known as America, to have the first African-American President of the United States.

So this President was elected in 2008 and reelected in 2012 with a huge reservoir of good will and hope that he would be successful. Indeed, all of us, regardless of our political stripes—whether we are conservatives or liberals, whether we are Independents, Republicans, or Democrats, we are Americans first and we want America to succeed. That is what we want more than anything.

It is also important to remember that our system of government is important to our success over these last couple of centuries and that we haven't gotten here by accident. We have gotten here because of our Constitution, because of the genius of checks and balances between coequal branches of government. That is a lesson this President seems to have forgotten; that too often he decides to go it alone or do an end run around Congress because he can't get what he wants.

Well, we are not guaranteed, any of us, in political life or in life in general, to get everything we want. We know that particularly when it comes to legislation—things like health care reform—nobody gets everything they want if, in fact, it is going to be a bipartisan product.

But rather than attempting a bipartisan product, this President and our friends across the aisle decided to jam the American people and to jam the minority party in Congress and to pass a law which now they own lock, stock, and barrel.

Again, I am willing to concede the good faith and good intentions of those who thought this would work, but now we have gone from theory to evidence and experience, and we know it hasn't worked.

Well, thankfully, in our three coequal branches of government, we have not just the legislative branch that passes the laws and the executive branch that is supposed to enforce the laws, we have a third branch of government; that is, the judiciary. And they have done their part—but they are not through yet—to stop executive overreach and uphold the rule of law.

I have heard some of our colleagues say: Well, the Supreme Court has upheld most of ObamaCare and it is the law of the land—as if it is somehow sacrosanct and can never be changed. Well, that is just not true, at least not under our system of laws. As I said to begin with, if we find that the laws we passed result in consequences we did

not intend or we find that the American people are dissatisfied with it and it leads to undesirable results, we can change it, and that is the way our system works.

We are not bound forever by any law. We can change them because that is the way our system works. So when people say it is the law of the land, get over it, move on down the road, that is not an American perspective, at least under our Constitution.

As I said, we have seen a number of times where this President and this White House have simply ignored laws, refused to enforce laws, and overreached. For example, the District of Columbia Circuit Court has demanded that this administration follow the law on issues related to corporate governance, emissions requirements, recess appointments and the disposal of nuclear waste. This is the same court that this majority leader, Senator REID, and his political party have decided to stack. They decided to break the rules of the U.S. Senate that have been in effect a long time in an overt power play in order to stack this second most important court in the Nation, the DC Circuit Court, by breaking the Senate rules in order to deny the minority a voice in the confirmation process and to confirm these nominees in what we are engaged in this week, which is another overt power play.

But the stated reason for doing that, and the supposed necessity of doing that, is because the senior Senator from New York, the majority leader, and others say they are not happy with the way the DC Court of Appeals has ruled on cases involving the Obama administration. But as I said a moment ago, in at least four of these big areas, the DC Circuit Court has upheld the administration's point of view in important appeals before the court.

At the same time, the DC Circuit Court has also ruled in favor of the administration on some issues related to health care, embryonic stem cell research, and several other major environmental matters. But notwithstanding those successes in terms of policy approval by the DC Circuit Court of this administration's policies and of the bureaucracy's interpretation of those policies, we know that the majority leader was bound and determined, along with his allies in the other party—that they were bound and determined to make sure the DC Circuit Court of Appeals would issue no rulings which would undercut or fail to enforce this administration's policies. So they decided to pack this court, which is what this process we are engaged in this week is all about, with ideological allies who would rubberstamp their agenda.

When the minority in the Senate—and, by the way, I am not just talking about my rights or Senators' rights. We are just representatives. I represent 26 million people. When the majority leader shuts me out of the amendment process or the opportunity to have a

say in the advice and consent over the nomination of judicial nominees or executive branch nominees, he is not affecting my rights *per se* but the rights of 26 million Texans, to have their voice heard in this process. That is something he ought to think about and reconsider.

We know the nature of the Senate has been fundamentally transformed under the leadership of Senator REID. When I first got to the Senate, which was a while ago—it doesn't seem like that long ago, but it has dramatically changed—we had an open amendment process. We would actually have bills come to the floor, legislation such as the national defense authorization bill, and we would spend up to 3 weeks debating and offering amendments on that important piece of legislation. As we have heard at different times, the national defense authorization bill is viewed as so important by both political parties and by the entire Senate that we have passed a Defense authorization bill for I think at least 50 consecutive years. That is quite a tradition. But instead of doing that, Majority Leader REID decided to cut off the opportunity for the minority to offer amendments to this important piece of national security legislation.

When we were able to block cloture in order to protest that in order to provoke, hopefully, a negotiation which would result in a process whereby minority rights would be respected and an opportunity to amend this legislation provided, now we learn that as part of this end-of-the-year sprint to Christmas, that in addition to jamming through these nominees, the majority leader's intention is to take a bill that was basically negotiated among four Members of Congress, that would be the four Members of the Armed Services Committee, both the chairman and ranking members on both sides of the Capitol, to fill up the amendment tree, file for cloture, and pass it in the last week we are in session.

It is beyond outrageous, this transformation in the Senate. I think what shocks many of us the most is that Majority Leader REID is an institutionalist, and by that I mean it as a compliment. He has been in the Senate a long time. He understands how the Senate works and why the Senate rules are so important. Yet nobody in my memory has done more to undermine the institution of the Senate and its rules and traditions than the current majority leader. For what purpose? For short-term gain.

Why do I say it is short-term gain? They can get away with it when they are in the majority, but it is temporary, because during the time I have been in the Senate I have been in the majority and I have been in the minority. I have to admit, being in the majority is a lot more fun. But in other words, what I am saying is this short-term power play by the majority party in the Senate to break the Senate rules, to jam through legislation and to

deny my 26 million constituents in Texas an opportunity for me, on their behalf, to offer amendments to important legislation affecting the national security of the United States is an outrage. It is an outrage.

I will give just one example. Four years ago at Fort Hood, TX, Nidal Hasan, a major in the U.S. Army, killed 11 people and wounded about 30 more. This is about 4 years ago. You will remember it. The reason it took so long for him to be brought to justice—I am not sure I understand exactly why—but there was some concern, and a concern I shared, that if we identified this for what it truly was, which is a terrorist attack on our own soil, it might undermine the fairness of his trial and give him some grounds to appeal and perhaps escape the just punishment for what he did.

Major Hasan, when there was initial review of what he did and evidence that he had shown absolutely clear signs of being radicalized and joining the fight of Islamic extremists against the United States of America, against his own government, that those were completely ignored by the military, by the Army, in an exercise of political correctness. Even though he stood up that day and he said Allahu Akbar, “God is great,” in the traditional cry of Al Qaeda and Islamic extremists and others who were bent on suicide and homicidal acts, initially when that was reviewed, the conclusion by the politically correct police here when they reviewed it was this is workplace violence. In other words, they refused to call it what it was, which was a terrorist act on our own soil.

I do not fully understand the reticence to identify it for what it is because we all know we had at least one other major terrorist attack on our own soil on September 11, 2001, when approximately 3,000 Americans were killed by one of the most horrific terrorist acts to occur in our lifetime and hopefully ever—hopefully it will never occur again.

After that, the Department of Defense decided to use its discretion to award the people who were injured or killed in that incident the recognition and benefits they deserved under our laws—Purple Hearts and other death benefits. But when I and my colleagues on the other side of the Capitol, Congressmen JOHN CARTER and ROGER WILLIAMS, sponsored legislation to recognize that this attack at Fort Hood that cost the lives of 11 Americans, including 10 members of the U.S. military and 30 more people were shot and injured, many of whom bear those wounds even today—when we filed legislation on the national defense authorization bill in order to amend that bill in order to give that same recognition to these 11 Americans who lost their lives and the 30 more who were injured in that terrorist attack on that day at Fort Hood, TX, in Killeen, TX, some 4 years ago, that amendment has been shut out of this process.

Do not be confused. This is not about denying me my rights as a Senator. This is about denying those 11 Americans who lost their lives that day justice, and the 30 more who survived that attack, the benefits they are entitled to by virtue of being a victim of a terrorist attack on our own soil—again.

There are real human consequences to the machinations of the majority leader and this revolutionary change in the nature of the Senate, denying the rights of the minority to be heard and to offer legislation on behalf of our constituents. That has such far-reaching impact.

In many ways I think what we are experiencing this week and what we have experienced recently is an attempt to distract the American people from the train wreck known as ObamaCare. If I had voted for the President's signature legislative proposal and I was one of the Democrats who voted for it, since no Republican voted for it, I would want to change the subject too. As someone who served in this Chamber for 11 years, it saddens me that our Democratic friends choose to obliterate the Senate rules and gravely weaken minority rights for petty partisan reasons. Again, it is so shortsighted it is just unimaginable. It is as if Members of this body have attention deficit syndrome, where they are so focused on immediate gratification that they forget or they ignore the long-term consequences of this revolutionary change in what once was called the world's greatest deliberative body, which is no more the world's greatest deliberative body, at least under this majority leader and under his rule-breaking regime.

Over the years leading up to last month's showdown, the majority leader repeatedly promised not to use the nuclear option. Again, I know this is about process. The eyes of the American people begin to glaze over when we talk about the internal processes and operation of the Senate. But as I attempted to demonstrate a moment ago, they have real-world consequences. Tell that to the people back at Fort Hood who lost their family member in this terrible terrorist attack on our own soil, committed by an American citizen wearing the uniform of the U.S. Army, where he joined the enemy, Islamic extremists, was radicalized by the same person who essentially tutored the Underwear Bomber who was arrested in Detroit, who tried to blow up another airplane on that day. Those people are the ones who are suffering the negative impact of the undermining of this institution by the majority leader. Well, the majority leader repeatedly promised not to use the nuclear option, but he broke that promise.

My experience in public life is—again, we all have different ideas about how to accomplish our goals and hopefully improve life for the American people, but one of the things that are even more important is the personal

relationships between Members of the Senate.

There is a lot of good work that can get done when there is good faith and trust between Members of the Senate, and, indeed, those are not the kinds of things that typically make their way into the newspapers or that people pay much attention to because they are done quietly behind the scenes, cooperatively and collaboratively. But when the majority leader—the leader of this institution—breaks his word repeatedly about undermining the Senate rules in a partisan power grab, it necessarily undermines the trust that has come to be the important glue to this institution, and because it is important to this institution, it is important to the country. When we learned that trust is unjustified and that his promise is hollow and meaningless—well, it reminds me of another American who has made extravagant promises to the American people that were obviously false and could not and cannot be relied upon. I am talking about the President's promise in ObamaCare that if you like what you have, you can keep it. I saw a poll recently that said 37 percent of the respondents in that poll believe the President is honest and trustworthy.

I didn't vote for this President, but he is still my President. The ability of the President of the United States to actually govern and to be respected—not only here in America but around the world—and viewed as a person of character and substance, well, it is completely undermined by the kinds of false promises this President has made in ObamaCare.

It is not just limited to health care; it has broad ramifications and a huge ripple effect. In terms of the way that, for example, Bashar al-Assad in Syria used the President's redline on the use of chemical weapons—if Bashar al-Assad thinks this President is not going to be honest or trustworthy in terms of his statements, then his threats of a redline simply will not be believed.

It is the same thing in Tehran, where 19,000 centrifuges are spinning and enriching uranium in Iran's pursuit of nuclear weapons—a goal which, if achieved, and which is not too far off in the distant future, will destabilize the Middle East and will threaten not only a regional war but a larger conflict because if Iran gets a nuclear weapon—Iran is not just any average nation state. It is a state sponsor of international terrorism in the form of Hezbollah and other support, particularly directed at our ally and friend, the nation of Israel.

Iran has been killing American soldiers in Afghanistan and Iraq for many years through their training and support for our more obvious adversaries there, through the design and importation in Iraq, for example, of explosively formed penetrators that will melt through the metal of our vehicles and other protective armament that our

military uses and, as I said, resulted in the deaths of multiple American GIs. So Iran is not our friend.

So when the President says: This is another redline, well, our enemies can read our newspapers. They read the same polls we read. They see a President making false statements that cannot be relied upon, and it undermines his credibility when it comes to our enemies—people who want to wipe Israel off the face of the map. That can have very dangerous consequences, obviously, because when people don't believe what America says through the voice and in the person of our Commander in Chief, the leader of the free world, it emboldens our enemies.

They push the envelope in North Korea, Iran, Syria, and other places around the world. This is not a minor issue. When the President acts as if the law does not apply to him and if the law means just what he says it will—meaning at any given moment—it is as if the law doesn't really matter and his word cannot be trusted.

Just a few other thoughts on how ObamaCare was passed. I remember being in this Chamber on Christmas Eve in 2009. I think it was 7 in the morning. It may have been 7:30 in the morning when we had the vote on the ObamaCare passage—at least the initial passage. It passed with 60 Democratic votes and no Republican votes.

I often pointed out that before ObamaCare, every major domestic reform in modern U.S. history—from civil rights, to Medicare, to welfare reform, to No Child Left Behind—enjoyed significant bipartisan support at the time of its passage. Why is that important? Well, because ObamaCare was a pure partisan power play. It was shoved through on a party-line basis without a single Republican vote and despite high levels of public opposition.

I remember people were told: Well, we just haven't done a very good job of messaging and explaining or when ObamaCare is implemented, people will learn to love it. Well, we now know that jamming through legislation which basically commandeers one-sixth of the American economy is a recipe for disaster. It is a bad way to pass any major law, let alone a measure that affects everyone in the country because our health care delivery system affects every man, woman, and child in our country.

ObamaCare is a part of a broader pattern that should be deeply disturbing to anyone who cares about our Constitution and the checks and balances that the Framers of our Constitution knew would be so important to maintaining consensus and maintaining balance.

Today's Democratic leaders seem to believe that might makes right and that inconvenient legislation can be swept aside by Executive fiat and that when the Senate rules prove to be an obstacle to obtaining what they want, such as stacking the second most important court in the Nation in order to

be a rubberstamp for the bureaucracy's ideological zeal, well, they can sweep aside those rules too.

This debate is about far more than policy differences. It is about the respect for the rule of law and respect for our Constitution, it is about preventing the executive branch from running roughshod over Congress, and it is about safeguarding the constitutional government.

If we need any more examples about the Obama administration's abuse of power, I am prepared to provide that. We know the Obama administration showed contempt for the normal legislative process in a number of ways. When Congress refused to enforce card check for labor unions, the administration turned to unelected bureaucrats at the National Labor Relations Board, the NLRB. When Congress refused to, on a bipartisan basis, pass cap-and-trade energy taxes, the administration turned to unelected bureaucrats, the Environmental Protection Agency. Indeed, now President Obama has authorized the EPA to regulate virtually every aspect of the American economy without congressional approval even though the EPA itself has acknowledged that its proposed greenhouse gas rule would not have a notable impact on carbon dioxide emissions during the next decade.

The Obama administration is acting in a lawless manner in other ways as well. In early 2011, more than 2 years before the Supreme Court ruled on the Defense of Marriage Act, President Obama ordered his Justice Department to stop defending the law even though it was passed with an overwhelming bipartisan majority of Congress. It was signed into law by President Bill Clinton and broadly supported by the American people. The right way to deal with that is not for the executive branch to refuse to enforce the law, but it is to come back to Congress and say: You know what. We think things have changed. Congress ought to reconsider.

Rather than do that, the President decided to have the Justice Department refuse to enforce the very law Bill Clinton signed.

Then there is the Independent Payment Advisory Board. This is part of ObamaCare—one that perhaps has one of the most pernicious impacts because what it does is it puts unelected bureaucrats in charge of deciding health care for your mother, your father, your grandmother, or your grandfather—in other words, whether Medicare beneficiaries can get the health care they need. How do they have an impact? Well, these 15 bureaucrats, under this ObamaCare-created bureaucracy, will have the authority to decide what sort of health care Medicare pays for. This is just a way to ration access to care. So if these 15 bureaucrats on IPAB—the Independent Payment Advisory Board—say: You know what. We think you are too old; we don't think it is worth it for you to get a hip replacement so you can walk and be produc-

tive and mobile; we don't think it is worth it for you to get bypass surgery; we are not going to pay for it, the Federal Government will not pay for it, and so it will not be delivered.

What is worse is that IPAB's recommended Medicare cuts automatically take effect unless a congressional supermajority votes to cut health care spending by an equivalent amount.

Columnist George Will said:

This is a travesty of constitutional law-making: An executive branch agency makes laws unless Congress acts to achieve the executive agency's aim.

This is the Constitution turned on its head. Indeed, IPAB makes a mockery of our constitutional system of separation of powers, and it should be repealed immediately.

Not only has the administration used unelected bureaucrats to sidestep the normal legislative process and disregarded the rule of law for transparently political or ideological reasons, it has also fostered a culture of deception and intimidation.

One example is Operation Fast and Furious. This has particular impact to my State, which is a big border State. My colleagues will recall that Operation Fast and Furious was this bone-headed idea wherein the Bureau of Alcohol, Tobacco, Firearms and Explosives would actually allow weapons to go from American gunshops into the hands of the drug cartels without interdiction. I guess the idea was once they got in the hands of the cartels, we would somehow trace them and know who the bad guys are, but it broke down along the way. So many of these guns were simply not recovered and no doubt have been used to kill many people in Mexico, as well as an American citizen, Border Patrol agent Brian Terry, 3 years ago.

Attorney General Holder, who is administratively responsible for the Bureau of Alcohol, Tobacco, and Firearms, repeatedly obstructed a congressional investigation into Fast and Furious, and his sworn testimony was repeatedly contradicted by the Justice Department itself, by their own memos. One DOJ official—a U.S. attorney in Arizona—tried to smear a whistleblower by leaking a private document. The Department of Justice's own inspector general called this behavior inappropriate for a Department employee and wholly unbecoming a U.S. attorney. A separate DOJ official was forced to resign her position after she was caught collaborating with leftwing bloggers to slander both whistleblowers and journalists.

Then there is the IRS scandal. It is almost hard to keep up with all of the scandals, but we can't let these get away from us because they are so important to get to the bottom of one of the most important governmental bodies in the U.S. Government, and that is the Internal Revenue Service that, again, touches all of our lives. We found out, of course, that IRS agents were deliberately targeting people

based on their political views. At least one conservative activist, Catherine Engelbrecht from Houston, TX, was targeted by multiple agencies, including the IRS, the FBI, the Bureau of Alcohol, Tobacco, and Firearms, and the Occupational Safety and Health Administration, OSHA.

We also know the administration—or at least the bureaucracy—has targeted political donors. The 2012 Obama campaign bullied private citizens who donated money to Gov. Mitt Romney, including a man named Frank VanderSloot whose experience was chronicled by Kimberley Strassel in the Wall Street Journal. In April of 2012, Mr. VanderSloot found himself, along with seven other Romney donors, condemned by an Obama campaign Web site for being “less than reputable.” The Web site suggested that quite a few of the eight donors had placed themselves on the wrong side of the law and had gotten rich at the expense of so many other Americans. Mr. VanderSloot was singled out because—or I should say he was singled out as a “bitter foe” of the gay rights movement.

Mr. VanderSloot didn’t run for public office. He didn’t volunteer to be treated like this. He is an American citizen who was engaging in a constitutionally protected right to provide financial support to a political candidate of his choosing. Rather than keep the fight on the political opponent—Governor Romney—the Obama campaign went after the donors. Mr. VanderSloot didn’t have a criminal background, nor did any other of the Romney donors who were similarly targeted. But shortly after he was denounced by the Obama campaign in this manner, a Democratic opposition researcher began researching his divorce records. Meanwhile, the IRS decided to audit 2 years’ worth of his tax filings, and the Labor Department announced a separate audit of the immigrant workers employed at his cattle ranch.

As Kimberley Strassel wrote for the Wall Street Journal: “Every thinking American must henceforth wonder if Mr. VanderSloot has been targeted for inquiry because of his political leanings.”

We also know this administration has harassed journalists. Although President Obama said this administration would be the most transparent administration in American history, it has proven not to be so. In the case of FOX News correspondent James Rosen, the Obama Justice Department tracked him down like a common criminal simply for doing his job. The Department of Justice tracked Rosen’s movements, got a search warrant to examine his private emails, and even obtained his parents’ phone records. This is a journalist. As a Washington correspondent for the New Yorker magazine noted: “It is unprecedented for the government, in an official court document, to accuse a reporter of breaking the law for conducting the routine business of reporting on government secrets.”

We also know the Obama Justice Department has conducted a disturbingly intrusive investigation into the phone records of journalists who work for the Associated Press, and, as I said, displayed an unprecedented level of contempt and obstruction for the Freedom of Information Act.

Washington lawyer Katherine Meyer has filed FOIA cases under six different administrations dating back into the late 1970s. FOIA is the shorthand for the Freedom of Information Act, of course. Last year, she told Politico that “this administration is the worst on FOIA issues—the worst.” So much for the President’s claim to be the most transparent administration in this Nation’s history.

In 2011, the Obama-Holder Justice Department received a mock award from the nonpartisan National Security Archive which said that the DOJ had shown the “worst open government performance” of any Federal agency that year. This is the agency that is supposed to enforce the Freedom of Information laws, and it was recognized as demonstrating the “worst open government performance” of any agency that year. Among other things, the Department of Justice was cited for its mistreatment of whistleblowers and its efforts to undermine the Freedom of Information law.

Speaking of whistleblowers, we know the State Department has also punished U.S. diplomats for cooperating with congressional investigators looking into the September 2012 terrorist attack that killed four Americans at Benghazi, Libya. This is so outrageous that it bears recall that Susan Rice, the President’s U.N. Ambassador, showed up on five, I believe it was, Sunday morning talk shows and claimed the attack at the American consulate in Benghazi that took the life of four Americans was precipitated by a video that was deemed to be disrespectful of the religion of Islam. It turns out that wasn’t true, and for a long time the administration denied this was even a terrorist attack—something which it now acknowledges. But when people come forward, such as the whistleblowers, diplomats who knew the Ambassador and those who lost their lives on that terrible night in September of 2012, then they are punished, not welcomed as truth tellers, to get to the bottom of this terrible incident in Benghazi, Libya.

Then we know that further intimidation continued with ObamaCare in 2010. Actually, this preceded the Benghazi intimidation. In 2010, various health insurance companies began alerting their customers that ObamaCare was going to force them to raise premiums. This is back in 2010. Fast forward to 2012. That is what has happened. So first of all, people saw the Web site was a problem and now that is getting fixed, and now they are experiencing cancellations, and then there is the sticker shock where their premiums have gone up. In 2010, when the insurance indus-

try tried to tell their own customers their premiums are going to go up because of this law, Kathleen Sebelius, the Secretary of Health and Human Services, responded by threatening to punish these companies and bar them from participating in the ObamaCare exchanges.

It is quite remarkable. I think in any other context we could call this thugery, intimidation, abuse of power.

A few years later, we learned that Secretary Sebelius was shaking down private companies to help fund the implementation of ObamaCare because Congress, believing it had been misled in so many instances regarding ObamaCare, had refused funding. It is very disturbing to learn that the same IRS official who led the division that targeted people because of their political beliefs is now in charge of administering large portions of ObamaCare.

As I said a moment ago, one of the biggest casualties in all of this—particularly as it relates to the false promises of ObamaCare—is the President’s own credibility. The other day I had a chance to speak on this topic and I said, “ObamaCare is the single biggest case of consumer fraud in American history.” Anybody else under any circumstance would find themselves hauled into court and be called to account. If a private citizen or a private company had spoken out, they would be sued for money damages. They would likely be put out of business because there would be an injunction granted or perhaps punitive damages.

When the President speaks on behalf of the United States, whether it is in domestic affairs such as ObamaCare or whether it is on international matters such as the red line on chemical weapons in Syria or the red line on Iranian nuclear aspirations, it should count for something. But according to a new NBC Wall Street Journal poll, only 37 percent of Americans give President Obama a “very good” rating for “being honest and straightforward”—37 percent. That compares with 63 percent in January of 2009. So the President’s reputation for honesty went from 63 percent in January 2009 to 37 percent on December 11, 2013, or at least that is the date the Wall Street Journal and NBC reported the results.

We know when the President’s approval rating—particularly his approval rating for honesty and truthfulness—is damaged, all of those who trusted the President as he led them down the gangplank with the implementation of ObamaCare are bound to get pretty nervous, because while the President was able to move the actual implementation of ObamaCare past his own reelection in 2012—this law was passed back in 2010. Yet the President himself was able to avoid accountability, by and large, by pushing the implementation past his election in November 2010. But 2014 will be a mid-term election. The President will not be on the ballot, but his allies will be on the ballot—people who trusted him,



as he told them and he told the American people that you are going to be able to keep what you have if you like it, even though he knew it wasn't true. We know that from as far back as 2010.

Senator MIKE ENZI led the effort to expand the grandfathering flexibility in the Health and Human Services rules, and that was defeated on a party-line vote. All of our Democratic friends voted against expanding the flexibility of these grandfathering provisions back in 2010 when HHS and, indeed, the Congressional Budget Office estimated that as many as 78 million Americans on employer-provided plans would find they would no longer be able to keep their coverage either.

So there is going to be a day of accountability in November of 2014, as those who, perhaps unwisely, trusted the President, who believed in this big government scheme that simply has not worked—and that many of us believed would never work—there will be a day of accountability.

My hour has come and gone, and I see the Senator from Oklahoma on the floor. In conclusion, I ask unanimous consent that a summary of stories from Texans who have been affected by ObamaCare be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STORIES FROM TEXANS WHO HAVE BEEN  
AFFECTED BY OBAMACARE

TEXANS CONTINUE TO WRITE IN WITH PAINFUL  
STORIES OF HOW OBAMACARE HAS AFFECTED  
THEM AND THEIR LOVED ONES

My husband and I are self-employed. We have coverage through BCBS of TX. Our current premium for us and our 2 children is \$854 per month. Our premium was raised to \$854 from \$814 three months ago. We have a \$6000 family deductible, and an out of pocket amount of \$12,000. We have been very happy with our policy. However, I created an account on healthcare.gov to see if we could get a cheaper policy with similar coverage.

The cheapest insurance coverage offered on the website is a Bronze package with 60% coverage and monthly premium of \$1189. This is the cheapest policy with less coverage than what we currently have!

TEXAS RESIDENT,  
Austin, Texas.

"I worked 34 years for AT&T/Lucent/Avaya and took an early retirement in 2001 with pension and healthcare. I became Medicare eligible this year as I turned 65, however my wife is only 59 and remains on my employer group plan. This month we were notified that Avaya would stop providing all pre-65 healthcare to retirees and their dependents. Living on fixed income this additional expense is taking me out of the middle class and putting me financial jeopardy for my remaining years."

DON WHISENANT,  
Mesquite, TX.

"Because of health conditions, both my wife and I are in the Texas State High Risk Pool and have been for at least 12 years. Now because of Obamacare, at midnight on December 31st, we are no longer going to be covered by an insurance policy that covers my heart condition and my wife's epilepsy. While the State High Risk Pool is expensive (\$2300.00/month) it is about half of what ACA is, our \$1000.00 deductible will jump to over

\$7000 and possibly up to \$10,000.00 with half the benefits. This law needs to be repealed."

CHUCK MARSH,  
Canadian, TX.

I am one of those whose plan was canceled. I have a high quality, admittedly high deductible, PPO plan from a major carrier. There is nothing discount or low quality about it. The ACA offering is for the same coverage and the same deductible. There are two differences in the ACA plan from mine. The first is that it includes maternity and pediatric care, which in our fifties my wife and I don't need. The second difference is the ACA plan premium is 65% more per month than my current plan.

The president said I could keep my plan, at 65% less for the same high quality coverage offered by the ACA option I want to keep it. For Americans who have to purchase their health care independently, the ACA is deeply flawed. Please help.

GLENN BARLOW,  
Plano, TX.

Obamacare has caused my mother to lose her insurance because she no longer meets the minimum for coverage. My father went back to work for insurance and his company won't give it to him because he is older than 65 so he has to go on Medicare. Most doctors in his area won't take it and the ones that do offer sub-par care. He needs a hernia surgery and they won't cover it because of his age. No one wants a hernia surgery unless they need it. My husband switched jobs for a pay raise. It ended up being a pay cut because of the crippling cost of insurance. We now pay close to \$24,000 a year for insurance and we can't afford to use it because it covers so little. We were promised all these things wouldn't happen.

CHRISTINE ROBINSON,  
Round Rock, Texas.

I am writing to add my name to the growing list of your constituents that will be canceled from coverage next year. I am self-employed, a small business owner insured through Blue Cross Blue Shield Texas. Apparently my current plan is 'substandard' as it does not offer maternity coverage. Something you can imagine is vitally important to a single male of 54 years age.

ANTHONY DEVITO,  
Fort Worth, TX.

"We get our employee coverage from Pepsico the #43 company on the Fortune list. Everyone enrolled with our BCBS was canceled.

That policy is not what you seem to expect. We had birth control, prenatal, substance abuse, psychiatric, family counseling, chiropractic. In the last 3 years they paid out over 300,000 dollars for me alone in things like open heart surgery, new corneas, 21 days in the hospital, 5 days in ICU. In total for those 3 years I paid 7,500 and they paid 300,000+. That is NOT the sub-par insurance that Obama says he canceled.

I was canceled because it isn't ACA compliant. The replacement is much higher and the deductible is 1250 and the out of pocket is 6,000. If my next 3 years is like the last 3 it would cost me 21,750 instead of 7,500. How is that better?"

CLINT McLAUGHLIN,  
Dallas, TX.

Mr. CORNYN. I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Madam President, I enjoyed listening to my colleague for Texas. I will just comment to him, we are just beginning to see the series of

untruths about what the President and his allies have said about this bill. I practiced medicine for 25 years, I delivered over 4,000 babies, I had a broad-ranging general practice, and I was belittled on this floor for the statements that are now coming true by the very colleagues who voted for the unaffordable care act.

Let me just outline for you four things that are going to be untrue.

You cannot keep your insurance. Whether you like it or not, you are not going to be able to keep your insurance. You cannot keep anything. I am going to read a story in a minute about a young man who could not afford his employer-based plan but went shopping, had a vasectomy so he could qualify for his insurance because it did not have maternal coverage. They did not want more children. His wife wanted to stop working. He had a wonderful plan. He cannot do it now. Now he cannot get insurance because he cannot afford it, and he makes about \$500 too much to qualify for any subsidy.

So you cannot keep it.

The second thing is you cannot keep your doctor. I am experiencing that right now. MD Anderson in the Senator's own State is not covered by any of the plans. I have had a recurrence of cancer. My doctors now are at MD Anderson. I cannot use them under the unaffordable care act, unless I want to go and spend \$70,000 or \$80,000 on my next procedure out of my own pocket. I will have to go somewhere where the care is not what I would deem it.

The third untruth is every family is going to save \$2,500. It is going to be about the opposite. Because everybody is going to be spending about \$2,500 more.

Then, finally, what I was belittled on, that the quality of care is going to go down when they said the quality of care is going to go up. Access is going to be harder, not easier.

So when the American people really find out—the intention behind trying to fix health care was a good one. The system was broken. We do need to do things. But the untruths associated with this attempt to micromanage people's lives in a market—that was not perfect—I want to tell you, this is going to be so much worse than what we had in terms of real care and real outcomes. When it comes to individuals, most important is the relationship between the doctor and the patient. It is not just for the patient. The doctor having a relationship with the patient makes for much better judgments in terms of the quality of care they give and the insight into caring for the whole of that person. We are wrecking that. We are going to wreck that.

Mr. CORNYN. Madam President, will the Senator yield for a question?

The PRESIDING OFFICER (Mrs. McCASKILL). Without objection, it is so ordered.

Mr. COBURN. I am happy to yield.

Mr. CORNYN. I just ask my colleague, I am aware of his own experience that he just recounted here with



the fact that MD Anderson—the world class hospital located in Houston that is really the premier cancer treatment facility in America and perhaps even in the world—they are not in the exchanges so the Senator cannot continue his treatment there.

Can the Senator explain how that happens because I think a lot of people think if they like their current doctor and they like their current hospital facility, they are expecting that when they sign up for ObamaCare they are going to be able to continue to see that doctor and go to some same high-class health care facilities. How did that happen?

Mr. COBURN. I have not researched it yet. I guarantee my colleague, I will research it, and I will find out. But the fact is, the leading cancer centers—Sloan-Kettering, the same thing—the leading cancer centers in this country probably could not reach an agreement at a price low enough that would pay for their costs for this advanced cancer care, so they did not offer them a contract because they would not cut their prices enough for the insurance.

So here is the main point. We promised to increase access. What you are really seeing is decreased access. I cannot go to Chris Logothetis. The No. 1 urologic oncological specialist in the United States—I cannot go see him under my insurance. I can. I am fortunate enough. I had a career before I was in the Senate. I will pay. But think about how many people are not going to be able to see Chris Logothetis and go to MD Anderson and have their life saved through the latest advances in pure biochemical and medical research put forward by a lot of people from Texas; some money from the NIH, there is no question; some from the Milken Institute, private money that has gone into research. We all seem to think that NIH is the only one who funds research around this country. There are a lot of entrepreneurs who fund tons of it.

So as to this idea of access, we can say you are going to have access. It is just like in Medicaid. Oklahoma chose not to expand Medicaid, and I agree with that. The reason is we are never going to send the States the money. It is an impossibility, if you look at our budget situation, for us to ever keep the promise that the unaffordable care act said we would do for the States.

But here is what is happening: People who are going to be signed up for Medicaid—and there is a whole other story about people who are put in Medicaid who are not eligible and will not be able to sign up who the whole system has kicked wrongly into Medicaid—you can sign up for Medicaid. Where is your doctor? Seventy-five percent of the doctors in California are not even going to sign up for the Affordable Care Act.

In Oklahoma, a recent survey said, of the doctors over age 52, 60 percent are retiring in next year. Age 52—our best doctors, the ones with the most experi-

ence, with the most gray hair. They have seen it all. They have the best differential diagnosis. They are hanging it up.

Now we have all these rules coming with the Affordable Care Act on what you have to do on electronic medical records. You have ICD-10—66,000 codes now versus 10,000 that the doctor is responsible for picking. What we have is a mess on our hands.

The final fifth lie is the denial of the problems that ObamaCare, the unaffordable care act, has caused and sticking our head in the ground and saying: Well, it is not causing any of those things.

It is going to be the most disruptive thing that has ever happened in this country to one-fifth of our economy.

Mr. CORNYN. Will the Senator yield for one other question?

Mr. COBURN. I would be happy to yield.

Mr. CORNYN. To the Senator's point about Medicaid, in Texas, I believe the number is basically only one out of every three doctors—about a third of doctors—will see a new Medicaid patient because it reimburses at about 50 cents on the dollar of what a private insurance plan will. I know there is the problem of coverage versus access that the Senator alluded to. But I wanted to just ask the Senator about that sometimes our friends who supported this legislation said: If you care about getting people with preexisting conditions coverage or if you care about young people being able to stay on their parents' health insurance coverage, you have to take the whole enchilada; in other words, you have to accept all 2,700 pages of ObamaCare, and that is the only way you could address these concerns.

Are there ways to address some of these legitimate concerns, such as preexisting conditions, without embracing all of ObamaCare?

Mr. COBURN. Sure. One of those things is adverse selection, where sicker people raise the costs for everybody in the pool. But if, in fact, you looked at the Nation as a whole, and you had a law that said for any insurance company that is cherry-picking only healthy people, a portion of their profits will go into a pool at the end of the year for people with high-risk illnesses, that is what Switzerland does. It works wonderfully. What it does is it changes the behavior of the insurance company. They cover everybody.

So the whole idea behind insurance is to spread the risk. We did not have good risk rating. There is no question we need to address it. The Senator was on a bill with me, the Patients' Choice Act, which actually would not have created any of this mess and actually would have created a market with some of the parameters that would have spread the risk and had real indemnification in the country, but also would have had market forces driving it and still let you choose what you want.

The biggest problem with the unaffordable care act is it takes any discretion away from you about what is best for you and your family. It does it two ways. One is in terms of the details of what you can and cannot buy. I have 63-year-olds who have to buy maternity coverage.

But the final point I would make in that regard is that it takes away your ability to do what is your free and correct right to not buy health care if you do not want it. What is freedom about? You have to buy health care? We say: It does not really do it. It just charges you a tax, right? Even though we said it was not a tax, we somehow got it twisted around, and the Supreme Court says this is now a tax. I have not figured that one out yet. I hope the Senator has.

What does that have to do with freedom? If I choose to not buy a product—what if I choose not to buy high-definition cable? Is there a penalty for that? In other words, does Washington really know better? I think we have seen in the last 10 years, in my experience in the Senate, we are really the last ones to know, and the common sense of the American people is far greater than most of the ideas that were ever thought about coming out of here, other than some of the original founding documents that our Founders had.

So I would make one other comment on Medicaid. There is a recent study out of Oregon, which has done a good job of expanding its Medicaid. But when they went to look at what the difference was of expanded Medicaid, what they found out was that you were still, in Oregon, better off if you did not have Medicaid. You were better off if you had no insurance at all than if you had Medicaid. That is because we downward select through Medicaid, because of its pricing, to not the best of the health care system.

So when they looked at the control of diabetes, when they looked at high blood pressure, when they looked at the control of heart disease and congestive heart failure—when they looked at all those things—they found one thing that was better: the treatment of anxiety.

That was it. So in Oregon, when they actually looked at the study—and part of that is because, even though you say you got Medicaid, if you do not have a great doctor-patient relationship, where someone can get in your face who loves you and cares for you and cares about your health, and says: You have to do these things to change, you are going to change. So there is no impact.

So running it from Washington versus having real markets with a real safety net like the Patient Choice Act, which had a real safety net so that people are auto-enrolled who are irresponsible against catastrophic illnesses, is not a much better answer.

The other thing that is going to happen—I predict in April—is that you are going to see another uproar in this

country. That is when the seniors in this country pay their taxes and they find out that the little meager interest income they got off their savings because of what the Federal Reserve is doing, or the few dividends they got, 3.5 percent of that is going to now come to "pay for ObamaCare," because that is called investment income—3.5 percent.

So whatever your tax rate is, if you have any earnings on an investment, you are going to be paying that. You know, I will never forget Christmas Eve morning 2009—not having an opportunity to go over the Patient's Choice Act or have it voted on through the raw, brute political force of this body and ignoring the rights of the minority. We voted on the bill that many of us predicted—I am not worried about the exchanges. They will get that fixed. That is just the incompetency of management. They will get it fixed. It will eventually work and work well.

What will not work is the rest of it. It will not work. Just look at centralized management everywhere else in the Federal Government. It is inefficient, most of the time ineffective, oftentimes complicated by fraud or incompetence. We are going to do that to one-sixth of our economy. We are doing to it one-sixth of our economy.

The other thing that is going to happen in April of this year is people who have a health insurance policy through their employment, not buying through an exchange, are going to see their personal contributions through their employer rise significantly. That is because the insurance industry is going to have to pay for all of this. They are going to have adverse selection in what is being signed up on the exchanges.

The insurance companies that sell to the medium-size businesses and the smaller businesses who are not in a risk plan, they are going to be raising the costs for small businesses. So what is probably going to happen is that those small businesses are either going to markedly increase their employees' share or they are going to drop insurance all together and pay the fine—pay the tax or pay the fee, whatever it is. Pay the penalty. But the individuals, the people who we said we were helping, then will not be with the insurance that they had. They will be back to an exchange with a price, even with subsidies that are greater, 1. No. 2, with a copay that is greater—2. And, No. 3, with a massive deductible which is at 6,000 or 7,000 bucks, and all you really have is catastrophic coverage. Why did we not just do that? Why did we not just write catastrophic coverage for everyone in the country and let the market work on the rest of it?

That does not allow the elites in our society to make decisions for you. That is what we have done.

Let me share another story. This is from Tina Wilkerson. Tina called in. She has been a school cafeteria worker for a long time. For the last 14 years she has worked 40 hours a week for 10 months out of the year. She works for a food contractor company.

She has now been changed to a seasonal employee because of ObamaCare, so that her employer can avoid the ObamaCare mandates. It was costing her about \$400 a month for a health care premium, which included medical, dental, vision, plus life insurance, plus a short-term disability policy. She went to the Web site, looked at plans. With her subsidy, she pays \$645 a month premium, with a \$12,000 deductible, does not have vision care, does not have dental care, does not have life insurance coverage, and does not have disability coverage.

That is middle income in Oklahoma. Here is someone who, because of what we have done, is now far worse off—far more exposed in her attempt to do good. I will give my colleagues credit. Their ambitions, their goals are worthy; they were worthy. But the results are a disaster and will become much worse of a disaster.

I want to spend a little bit of time talking about the fact of what is really going to happen in the medical world. I have four former partners. I go by there sometimes on Friday and visit. You cannot believe the morale in the medical community today—unbelievably negative. You talk about worried. Think about the average physician. They have an undergraduate degree. They spend 4 years in medical school. They then spend 3 or 4 years in specialty training. So they have 12 years at a minimum of higher education.

They come out all excited about actually doing good, real good, making a difference in individual people's lives—whether it is holding a hand when somebody is going through a rough time or diagnosing a very serious disease. The payment for being a physician is the relationship with a patient. It does not have anything to do with money. It has to do with helping your fellow man. I want to tell you, that is totally upside down right now. If you do not think that makes a difference when you have a doctor walk into a clinic setting, and you are sitting there on an exam table, and that doctor is focused on: How am I going to pay the overhead? How am I going to buy the next piece of equipment that I need to care for you the way I need to care? How am I going to buy insurance for my own employees? How am I going to pay for the necessary bills?

Oh, by the way, I have got the Independent Payment Advisory Board coming that is going to tell me what I can and cannot do as a physician, regardless of how I am trained, regardless of what I know, regardless of how much gray hair, regardless of how much experience I have in terms of really caring for folks, I am going to have a group of unelected, appointed bureaucrats decide what I can and cannot do for you.

Then on top of that, we have ICD-10. Most people do not know that. That is a diagnostic code manual that has just been expanded from some 10,000 diagnoses to over 66,000 with Federal pen-

alties if you do not explicitly get it down to the detail. It is not enough that you broke a metacarpal in your hand, you now have to label which hand, which finger, and describe in subsets the fracture. Your nurse cannot do that for you. You have got to do it. So now we are taking more time, and the penalties are going to be severe if you do not do it right.

As a matter of fact, they will not pay you for Medicare or Medicaid if you have not done that. There is no significant benefit to the health care community, but certainly a mandated bureaucratic cost on every physician practicing in this country that will offer no long-term benefit to the individual patient.

So now you have a doctor walking in. He may have been up all night the night before delivering a baby, carrying this added burden of all of this bureaucratic mess that the affordable/unaffordable care act placed on physicians in this country. Think that has any impact on diagnostic skills, on compassion, on empathy? Think it will impact care? It certainly will. It is going to have a devastating impact.

I want my physician focused on me. I do not want him worried about the Federal Government. I do not want him worried about IPAB. I do not want him worried about ICD-10. I do not want him worried about whether or not they have met the requirements of electronic medical records. I want him worried about me. I want him concentrating on me.

So we have put this big distraction out there because we know better than the market, than the trained professionals, and the arrogant assumption that we know better than the average American about what they need because we have already told them what they must buy. We have told them, if you do not buy what you must buy, here is the penalty. Thank goodness the young people of this country have figured that out.

Which brings us back to the integrity of the statements of the President. What did he say? We have seen all sorts of rationalization evidence: If you like your insurance now you have got, you can keep it. Is that right? Right now, for 5.8 million, and soon to be 15 million Americans that is not true. They knew it was not true when they said it. But it sounded good.

Second deceitful thing: If you like your doctor, you can keep your doctor, period. Oh, really? Can I if I did not have individual separate means to keep Chris Logothetis? No, no. You cannot keep your doctor. You can have a new doctor, based on what your insurance company—based on what the pricing mechanism has. You can have one of those doctors. But if your doctor is not on that list, you cannot keep him.

So somebody may have delivered all of your babies, taken care of your parents, delivered your baby's babies, cared for your husband's heart attack, knows everything about your family,

knows your psychosocial profile, knows your emotional needs, someone who has really been your ally in life—that is gone for millions and millions and millions of Americans.

But oh, no: You like your doctor, you can keep your doctor. Every one of my colleagues voted against MIKE ENZI's bill to allow you to keep your insurance under the grandfather clause. Every one. MIKE ENZI knew what was going to happen. He put a bill on the floor. All of my colleagues said: No, we do not want you to be able to keep your insurance. It does not work that way. What about the deceit of this? Is it significant? Sure it is. It is a matter of trust.

Third thing. The promise of President Obama, who said, on average, that your health insurance costs will go down \$2,500 a year. I do not know who told him that, whether it was Dr. Emanuel or who. I do not know what whiz-bang accountant or financial forecaster told him that. But it is just the opposite of that. Probably the average American is going to spend about \$2,500 more trying to get equivalent care to what they had, not keeping their same insurance and not keeping their doctor.

Then, finally, the deceit that is assumed but not spoken, is that your doctor is going to make decisions for you and with you about your health care.

When the independent advisory board gets going, it will be not only about Medicare, it will be about everybody. If a group of unelected bureaucrats thinks I shouldn't run a non-stress test on a pregnant woman whom I am watching closely and they say I can't do that, I won't be able to do that.

We are going to be having a group of people practicing medicine in this country who don't know the patient, don't know the situation, don't have their hands on the patient, haven't ever touched the patient, making decisions about what kind of care that patient will get.

When we try to unwind the unaffordable care act, we have a routine chorus of noes. So the consequence is, who is going to be held accountable?

A total disruption of the indemnification market in this country is now occurring in terms of health care insurance. When the insurance companies look at what their ratios are in terms of young to old, in terms of higher risk patients who cost more versus younger patients who cost less, they will make a calculation this spring about what their fees will be for next year.

The ObamaCare administration did something else deceitful—intentionally deceitful. Before the election next fall, they don't want you to know how much the health care costs are going to rise, and so they changed the date on which you will make a selection for next year and on which those prices will go through until after the November elections next year because they know that if you know the significant increase in costs that are going to come next

year—not just this year but next year—based on the adverse selection and the mix of all of the insurance companies in this country—they know that the rise in your insurance health cost is going to be significant. So what did they do? They passed a little rule, and they changed the day to make the knowledge available to you, the purchaser, come after the election. So you won't be a fully informed voter knowing that your insurance costs are going to rise 20 or 25 percent again next year under the unaffordable care act—the unaffordable care act.

We are in a mess in a lot of ways. We are going to continue to see significant disruptions in the health care in this country. We are going to see a continuous decline in the quality of health care in this country—just the opposite of what they promised—because we are disrupting the doctor-patient relationship. I know this, having practiced for 25 years. I know what it takes to really care for someone. I know what it means to be in a room and spend the time that it takes to listen, to find out what is really going on, to find out why the patient is really there. We are going to drive down all of that.

We have this payment system in Medicare which pays on the basis of procedure—which is a dumb system—instead of paying on the basis of time that is spent with a patient. What most people don't recognize is that all reimbursements in this country for physicians—unless a doctor is in concierge medicine, which is another thing I will talk about in a minute—force doctors to spend less time with their patients because as we crank down reimbursements, either through Medicaid or through the insurance or through Medicare, and a doctor has fixed overhead which has been markedly expanded under the mandates associated with the Affordable Care Act, less time means less quality care. Less time means less quality care.

There was an interesting study done recently about how long—after your doctor comes into the room and asks “why are you here today?” how long before you are interrupted because the doctor is in a hurry to get to the next patient. It is 6½ seconds.

So our reimbursement mechanism, mandated by the Federal Government—another positive aspect of us meddling in the markets—is decreasing the time, the quality, and the quantity of health care that patients rightly deserve when they are sitting in your office.

What is the market doing about this? There is this growing expanse of what are called concierge doctors where, for a certain fee, that doctor is yours no matter how many times per year you want to go to him or them. No matter what your needs are, they are available to you 24 hours a day, 7 days a week, 365 days a year. How does it work? Well, most people can't afford concierge medicine. It is about \$1,000 a year that you pay. Insurance doesn't

reimburse you for it. You pay \$1,000, and they are available. You get a comprehensive, thorough health care screening exam once a year. All of your tests are included in that as far as blood tests and laboratory tests at a physician's office. Then if you have a need at any time during that year, you have access to that physician.

What do we find? The first studies that have come out on that, where we take the time pressure off the doctors and let them actually practice medicine the way they were trained, show that they order 40 percent fewer tests. Isn't that interesting?

The axiom in medicine that every doctor is trained with is if you will listen to your patients, they will tell you what is wrong with them, whether it is cancer or diabetes or heart disease or anxiety or depression or hypertension. But it takes time, it takes interaction, and it takes a great differential diagnosis. The unaffordable care act is destroying that. This is why you are seeing this little blurb out in the market where you see concierge medicine because now the reason they are ordering fewer tests is they spend about five times as long with a patient because they are not in a hurry to get to the next patient because they are not making their money by filling out a code and filing it with an insurance company. There is a complete relationship between the physician and their patient.

I would like to return to this gentleman named Brian who is from Oklahoma. He and his wife have two children under 5 years of age. They believed what the President said when he told them they would keep their health insurance plan and their doctors if they liked them. Brian recently called my office and said: That isn't true. That was a lie to me. It was deceitful. It was untrue.

Brian works in Tulsa, and the company he works for, he felt the insurance cost was too much, so he didn't take insurance from his employer, and he went on the private market and bought, through Community Care in Tulsa, a plan he and his wife could afford. His wife decided to quit working, stay home, and raise their two kids. He was paying a \$330 premium, but it didn't cover maternity care, and they didn't want any more children, so he underwent a vasectomy, which is an elective procedure, to make sure he wouldn't have more children.

On November 1, Brian received a letter in the mail stating that as of November 1 of this next year he would be terminated from his current plan and he would have to find a plan that satisfied the new mandates that the wisdom of Washington said had to be in there—maternity care. He spent hours on the ACA Web site, and what he found were plans that ranged in costs from \$800 to \$1,100 per month—four times what he was paying. He can't afford that. He didn't qualify for a subsidy, but he can't afford that.

So now what does he do? He had plan for \$330 a month that met his needs and covered what he and his wife thought they needed covered. He is a young man. What is going to happen to Brian? Brian is going to get taxed, not because he doesn't want to buy health care, not because he can't afford the \$330 or even \$400 or \$500 a month, but because he can't afford \$800 or \$1,100 a month. So now Brian is going to be without health care—I am going to say it again: without health care—and then we are going to fine him, we are going to tax him because we designed a system that took him out of the market. It didn't put him in the market; it took him out of the market.

What have we done? We had an opportunity to fix that with the Enzi amendment, to grandfather all of these plans in, and all of my colleagues on the other side of the aisle said no.

So here is Brian with a wife at home and two small children under 5, and he is stuck in no man's land. Do you think he thinks President Obama is truthful? No. Does he think those who touted the Affordable Care Act are truthful? No. He has lost confidence in his government.

That is really where we are in our country today. We are in a crisis of confidence with Washington. It was never meant to be. If you read the enumerated powers—as a matter of fact, we have an Enumerated Powers Act. It has 36 cosponsors. It says simply that if you bring a bill to the floor, you have to state what section of the Constitution gives you authority to legislate in that area based on what article I, section 8 of the Constitution has to say. Disappointingly, there is not one of my colleagues on the other side of the aisle who is a cosponsor of that bill. It doesn't stop you from offering the bill, it just says please reference where in the Constitution you have the authority to legislate in this way. None of our colleagues believe the Constitution has any bearing on what we do by the fact they will not even cosponsor that bill.

The very thing our Founders emphasized was our authority to make or change law. That is fundamental, structural to this country. As we have ignored—as does the affordable-unaffordable care act—the enumerated powers, the consequences to our country are monstrous.

This book contains, through the middle of November, all the emails my office has gotten on the Affordable Care Act from a State of just 4 million people. We are just 4 million people. There is not much positive in here. As a matter of fact, there is not one positive story in here. They are all stories similar to Brian's and Tina's—identical. Had care; don't have care now. Had an affordable plan; don't have an affordable plan now. Had a doctor; don't have that doctor now.

As a matter of fact, one of the stories in here is from somebody who had their doctor for 35 years and can't have that doctor anymore. It is not because the

doctor doesn't want the patient, and it is not because the patient doesn't want the doctor. It is because the unaffordable care act has decided that will not work in our system anymore.

We have heard through the press that we didn't have any ideas on health care. My colleagues know that isn't true. Senator BAUCUS stood right over there on December 8, when we tried to bring up the Patients' Choice Act. That did everything in terms of the goals which the Affordable Care Act did, without raising taxes, without disrupting the indemnification market in this country, creating a true safety net for those who could not afford health care, and created auto-enrollment for the irresponsible. We were never allowed to vote on that.

It was very similar to what we are seeing now with the Defense authorization bill. We have to pass one, but you can't have your say. My 4 million people don't count when it comes to the Defense authorization bill because they do not like the amendments I might offer.

Under the Constitution, it is illegal for the Pentagon not to give a report of how it is spending its money. It is a violation of the Constitution. We have an Audit the Pentagon Act. It has real teeth in it. There is somewhere between \$50 billion and \$100 billion worth of waste a year in the Pentagon. We will never manage the Pentagon if we can't measure what they are doing. Yet we don't get an opportunity to offer that. It is a smart good government amendment. But it is not in there, and it is not ever going to get offered. Why? Because the majority leader in this body has decided he will decide what amendments are offered and what amendments will not be.

This is no longer the greatest deliberative body. This is a mimic of the House of Representatives—the exact opposite of what our Founders intended the Senate to be. Their genius was they created a House of Representatives to be responsive to the populace demands of our country. That is why elections are every 2 years for the House of Representatives.

When the Senate was first formed, it was an appointed body by the State legislature and it was for a 6-year term. Jefferson wrote the rules—the first rules under which the Senate would operate—and the Senate was designed to make sure there could never be a tyranny of the majority, as we see today; that the minority rights of those in opposition would never be limited. For the first 130 years, it took absolute unanimous consent to do anything in this body. The rules were always changed—when the rules changes were made—with a two-thirds vote of those duly sworn and present, until November of this year.

Are things raw in the Senate right now? You bet. And they are going to stay that way because the very genius behind our Founders was to force consensus and compromise in the Senate,

something the majority leader doesn't believe in. We saw the raw, brute political power with the unaffordable care act. Not a single Republican voted for that bill. It was forced through with a 60-vote margin in December 2009 on Christmas Eve morning.

Now we see more raw, brute political force, not because it had to be that way but because leadership is lacking, an understanding of the traditions and history of the Senate. CARL LEVIN explained why he didn't agree with that. We didn't listen to one of the senior Members who has been here a long time, who understands the history of the Senate, and so consequently we find ourselves in a situation where consensus is not derived, the mechanism to force consensus has been diminished, long-term thought goes out the window, and bipartisanship will as well.

I wish to spend another minute or two talking about the Defense Authorization Act and the waste in the Pentagon. A little over 1 year ago I put out a report on the Pentagon. In the Pentagon's budget is \$67 billion a year which the Pentagon spends on items that have nothing to do with defending this country. I put out that report in the hopes the Senate Armed Services Committee would look at that report and say: We ought to take all this out of the Defense Department.

Do my colleagues realize the Defense Department has 112 science, technology, engineering, and math programs—110 separate programs. That doesn't have anything to do with defending the country. They have 138 green energy programs, spending billions of dollars every year on them. That should be at the Department of Energy, not in the Pentagon. It costs \$50,000 a year to educate a child on a military base in this country—four and a half times what it costs to educate anybody anywhere else in this country. That doesn't have anything to do with defending the country either. Why?

So we have \$67 billion that not one aspect of was acted on in the Defense Authorization bill. That was not taken out. Let's have the military defend this country and not do all these other things that don't have anything to do with defending the country.

Oh, by the way, if we moved that \$67 billion out, it is estimated we could save about \$15 billion in overhead absorption by moving medical research to the NIH, where it belongs, instead of the billions of dollars we send to the Pentagon for medical research that doesn't have anything to do with extraneous diseases that our combat forces might encounter in odd places around the world.

So \$67 billion, and we could have saved \$15 billion. That \$15 billion is three-quarters of what the new "agreement" between the House and the Senate on the budget for the next 2 years is. We could have saved that. That is \$15 billion that would have paid for training; \$15 billion that would have bought more ships; \$15 billion that

would have worked on missile defense, now that we are going to need it since Iran is going to eventually be armed with a missile-based nuclear weapon. But we didn't do it.

We have the Government Accountability Office that in the last 3 years has identified duplication throughout the Federal Government coming close to the tune of \$250 billion. One committee in the House has actually acted on their report. Of that \$250 billion, perhaps \$50 billion or \$40 billion could be saved by eliminating some duplication. Yet not one committee in the Senate acted on the recommendations of the Government Accountability Office to eliminate duplication—not one. Not one bill came to the floor.

We have tried to insert a lot of it, but we can't offer amendments anymore. We don't have the opportunity—the 4 million people in Oklahoma—to have a say on what happens. They see what is not happening, and they wonder why we don't fix these things.

Let me create a scenario for a minute. What do my colleagues think would happen in the country if we actually did the things the Government Accountability Office recommends we do? What would the people think if we eliminated the duplication, if we eliminated the fraud, if we eliminated the waste? The confidence of the American people in this Congress would rise because we are actually addressing the problems. We are actually addressing the key components that put us in deficit every year.

It is true—my colleagues all tell me—the biggest problem is our entitlements. That is true. But it doesn't mean we don't worry about the smaller problems. As a matter of fact, I am reminded—as I see the Presiding Officer in the Chair—that I owe Senator KING some information on some programs I forgot to give him that he asked me for in November. But if in fact we did all those things, if our committees were charged, through the leadership of this body, to eliminate the duplication, consolidate the programs, and save the money because we need the money right now, we need to not be charging it to our children, what would happen to the confidence in this country? It would rise. We would actually be doing what the people expect us to do. Nobody in the real world gets to do what we do—ignore the real problems, don't act on the real problems and say: It is too hard. It is too difficult.

I yearn for bipartisanship, for consensus. I yearn for a system that forces us into consensus—not all my way, not all somebody else's way but somewhere in the middle. That requires using the rules of the Senate and a long-term vision of where our country needs to be going and not caring about what a political career looks like but caring about what our country looks like.

We have lost focus on what is important. It is not my career, it is not the career of the distinguished Senator from Iowa, it is what happens to our

country. We have our eye on the wrong ball. I do too. I admit it. We degenerate to the easiest thing to be critical about.

I am human. I admit to that as well. It doesn't have to be that way.

Mr. President, I see that the majority leader and several others are on the floor. I yield the floor in anticipation of our vote.

Mr. HARKIN. Mr. President, I rise in enthusiastic support of the nomination of Chai Feldblum to serve a second term at the Equal Employment Opportunity Commission. Commissioner Feldblum has served with distinction at the Commission since 2010. She is a respected professor of law, and one of America's premier experts on employment discrimination and civil rights laws.

I have had the pleasure of working personally with Commissioner Feldblum first on the passage of the Americans with Disabilities Act in 1990, and more recently in 2008 on the passage of the Americans with Disabilities Amendments Act. She was a tremendous help to me in both of those efforts.

Chai Feldblum has a fierce intellect and a passionate commitment to ensuring equal opportunity for all. Perhaps the most important quality in a Commissioner at this critical agency, Commissioner Feldblum has the ability to listen to all sides and to make careful decisions about the allocation of the scarce resources that Congress provides to the EEOC. That ability to listen carefully, to search for compromise, and to forge consensus are skills that I have observed during our work together, and that I know she brings those skills to the EEOC.

She has built close working relationships over the course of her career with both worker advocates and the business community. This explains why her nomination has broad bipartisan support here in the Senate and in the employment community as a whole.

I have here letters of support from the Society of Human Resource Managers, the U.S. Business Leadership Network, and a letter signed by leading attorneys in the labor and employment bar. The signatories on that letter include five former GOP Commissioners and officers of the EEOC and the Department of Labor. Speaking of Ms. Feldblum, these attorneys say, and I quote, "Commissioner Feldblum has been one of the leading lights in the employment law field. She is a tireless contributor to the employment law bar and to educating stakeholders on employment law issues."

I ask unanimous consent that these letters be made part of the RECORD.

I would also like to note the critical role the EEOC plays in ensuring that people with disabilities are protected from employment discrimination, and in interpreting and enforcing the employment provisions of the Americans with Disabilities Act, ADA. My committee last year issued a report, Unfin-

ished Business: Making Employment of People with Disabilities a National Priority, that focused attention on the fact that employment rates for people with disabilities remain far below the employment rates for any other group. The report noted that people with disabilities participate in the workforce at less than one-third the rate of the general population, and that workers with disabilities dropped out of the labor force at a much higher rate during our recent recession. Given these harsh realities, it is critical to have a Commissioner at the EEOC who understands disability law and is committed to enforcing the employment rights of people with disabilities. Given the role that Commissioner Feldblum played not only in passing the ADA and the ADA Amendments Act, but in the implementation of those laws, it is invaluable to have someone with her expertise at the EEOC.

I am not alone in that view. I have a letter here signed by 38 separate disability organizations in support of her re-nomination. I ask unanimous consent that this letter be included in the RECORD.

Commissioner Feldblum's confirmation will ensure that the EEOC has a full complement of members, and that the agency is able to move forward with the critical work of ensuring equality in the workplace. While much progress has been made in recent decades, discrimination in the workplace persists. Today, too many employment decisions are based on insidious stereotypes and prejudices rather than an employee's talent, ability and qualifications. Too many hardworking Americans face hiring discrimination, harassment, unfair treatment or even termination, not because of lack of skills or poor performance but because of their age, race, sex, disability or some other irrelevant factor.

Commissioner Feldblum brings to the EEOC a determination to work on a bipartisan basis to craft practical solutions, and to work to make America's workplaces more fair and free from discrimination.

The EEOC's mission is simple: to promote equality of opportunity in the workplace and enforce Federal laws prohibiting employment discrimination. Unfortunately, the agency must fulfill this broad mission without sufficient resources. The EEOC is constantly being asked to do more with less. Just in the past year, as the result of sequestration and across-the-board cuts, the EEOC has seen its budget drop from \$360 million to \$343 million. Meanwhile, the EEOC continues to handle an increasing number of complaints—almost 100,000 each in 2011 and 2012!

At least in part thanks to strong management and setting clear priorities, in 2011 the agency managed to reduce its backlog for the first time in almost 10 years. Together with Chairman Berrien and the other members of the Commission, Commissioner

Feldblum has played an important role in developing a strategic plan that allows the EEOC to create a system that rewards effective investigations and conciliations, and does not incentivize the closure of charges simply to achieve closures.

I urge my colleagues to support the re-confirmation of this excellent, highly qualified nominee. I look forward to her confirmation and to her continued service on the Equal Employment Opportunity Commission.

The PRESIDING OFFICER (Mr. KING). All time has expired. The question is on the Feldblum nomination.

Mr. COBURN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Chai Rachel Feldblum, of the District of Columbia, to be a Member of the Equal Employment Opportunity Commission?

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. MANCHIN), the Senator from Maryland (Ms. MIKULSKI), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Alabama (Mr. SHELBY) and the Senator from Illinois (Mr. KIRK).

Further, if present and voting, the Senator from Alabama (Mr. SHELBY) would have voted "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 54, nays 41, as follows:

[Rollcall Vote No. 258 Ex.]

#### YEAS—54

Baldwin	Gillibrand	Murphy
Baucus	Hagan	Murray
Begich	Harkin	Nelson
Bennet	Heinrich	Pryor
Blumenthal	Heitkamp	Reed
Booker	Hirono	Reid
Boxer	Johnson (SD)	Sanders
Brown	Kaine	Schatz
Cantwell	King	Schumer
Cardin	Klobuchar	Shaheen
Carper	Landrieu	Stabenow
Casey	Leahy	Tester
Collins	Levin	Udall (CO)
Coons	Markey	Udall (NM)
Donnelly	McCaskill	Warner
Durbin	Menendez	Warren
Feinstein	Merkley	Whitehouse
Franken	Murkowski	Wyden

#### NAYS—41

Alexander	Enzi	McConnell
Ayotte	Fischer	Moran
Barrasso	Flake	Paul
Blunt	Graham	Portman
Boozman	Grassley	Risch
Burr	Hatch	Roberts
Chambliss	Heller	Rubio
Coats	Hoeven	Scott
Coburn	Inhofe	Sessions
Cochran	Isakson	Thune
Corker	Johanns	Toomey
Cornyn	Johnson (WI)	Vitter
Crapo	Lee	Wicker
Cruz	McCain	

#### NOT VOTING—5

Kirk	Mikulski	Shelby
Manchin	Rockefeller	

The nomination was confirmed.

#### CLOTURE MOTION

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to report the motion to invoke cloture.

The assistant legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of Elizabeth A. Wolford, of New York, to be United States District Judge for the Western District of New York.

Harry Reid, Sherrod Brown, Richard J. Durbin, Christopher Murphy, Robert Menendez, Christopher A. Coons, Angus S. King, Jr., Martin Heinrich, Amy Klobuchar, Dianne Feinstein, Tom Udall, Kirsten E. Gillibrand, Bernard Sanders, Barbara Boxer, Brian Schatz, Robert P. Casey, Jr., Thomas R. Carper, Benjamin L. Cardin, Michael F. Bennet.

#### QUORUM CALL

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair now asks the clerk to call the roll to ascertain the presence of a quorum.

The assistant legislative clerk called the roll and the following Senators entered the Chamber and answered to their names:

#### [Quorum No. 6]

Alexander	Franken	Moran
Baldwin	Gillibrand	Murkowski
Barrasso	Hagan	Murphy
Baucus	Harkin	Murray
Bennet	Hatch	Nelson
Blumenthal	Heinrich	Paul
Blunt	Heitkamp	Portman
Booker	Heller	Pryor
Boxer	Hirono	Reed
Brown	Hoeven	Reid
Cantwell	Inhofe	Sanders
Cardin	Isakson	Schatz
Carper	Johanns	Schumer
Casey	Johnson (SD)	Scott
Coburn	Johnson (WI)	Sessions
Cochran	King	Shaheen
Collins	Klobuchar	Stabenow
Corker	Landrieu	Udall (NM)
Cruz	Leahy	Vitter
Donnelly	Lee	Warner
Durbin	Markey	Warren
Enzi	McCain	Whitehouse
Feinstein	McConnell	Wyden
Fischer	Menendez	
Flake	Merkley	

The PRESIDING OFFICER. A quorum is present.

The question is, Is it the sense of the Senate that debate on the nomination of Elizabeth A. Wolford, of New York, to be United States District Judge for the Western District of New York, shall be brought to a close? The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Montana (Mr. BAUCUS) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Illinois (Mr. KIRK) and the Senator from Alabama (Mr. SHELBY).

Further, if present and voting, the Senator from Alabama (Mr. SHELBY) would have voted "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 55, nays 41, as follows:

[Rollcall Vote No. 259 Ex.]

#### YEAS—55

Baldwin	Harkin	Murray
Begich	Heinrich	Nelson
Bennet	Heitkamp	Pryor
Blumenthal	Hirono	Reed
Booker	Johnson (SD)	Reid
Boxer	Kaine	Sanders
Brown	King	Schatz
Cantwell	Klobuchar	Schumer
Cardin	Landrieu	Shaheen
Carper	Leahy	Stabenow
Casey	Levin	Tester
Collins	Manchin	Udall (CO)
Coons	Markey	Udall (NM)
Donnelly	McCaskill	Warner
Durbin	Menendez	Warren
Feinstein	Merkley	Whitehouse
Franken	Mikulski	Wyden
Gillibrand	Murkowski	
Hagan	Murphy	

#### NAYS—41

Alexander	Enzi	McConnell
Ayotte	Fischer	Moran
Barrasso	Flake	Paul
Blunt	Graham	Portman
Boozman	Grassley	Risch
Burr	Hatch	Roberts
Chambliss	Heller	Rubio
Coats	Hoeven	Scott
Coburn	Inhofe	Sessions
Cochran	Isakson	Thune
Corker	Johanns	Toomey
Cornyn	Johnson (WI)	Vitter
Crapo	Lee	Wicker
Cruz	McCain	

#### NOT VOTING—4

Baucus	Rockefeller
Kirk	Shelby

The PRESIDING OFFICER (Mrs. HAGAN). On this vote the yeas are 55, the nays 41. The motion is agreed to.

#### VOTE EXPLANATION

Mr. BAUCUS. Mr. President, I thought I had voted on the last vote but apparently it was not registered. Had it been registered, I would have voted aye.

I thank the Chair.

#### NOMINATION OF ELIZABETH A. WOLFORD TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEW YORK

The PRESIDING OFFICER. Pursuant to the provisions of S. Res. 15 of the 113th Congress, there will now be up to 2 hours of postcloture consideration of the nomination, equally divided in the usual form.

The majority leader.

Mr. REID. On behalf of the majority, I yield back 57 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Hampshire.

#### MCCAFFERTY NOMINATION

Mrs. SHAHEEN. Madam President, I appreciate the 3 minutes to be on the floor in support of the nomination of



Landya McCafferty to the Federal district court for the District of New Hampshire. If confirmed, Landya will be the first woman to serve on the Federal bench in New Hampshire. But it is not Landya's gender that matters; it is her professional experience and her personal qualities that make her stand out. She has widespread bipartisan support throughout the New Hampshire legal community and she will make an excellent addition to the Federal district court in New Hampshire.

She is currently the U.S. magistrate judge for the District of New Hampshire. Her Federal court experience includes clerking for two district court judges and at the First Circuit Court of Appeals. Landya has also prosecuted professional misconduct cases for the New Hampshire Supreme Court Attorney Discipline Office, served as an appellate and trial attorney in the highly regarded New Hampshire public defender program, and worked in private practice as a civil litigator.

Landya is an innovator. As a magistrate judge, she has become a nationally recognized expert and teacher on how to use technology to achieve a more efficient and paperless workflow in the Federal court system.

She was unanimously rated "well qualified" by the American Bar Association's Standing Committee on the Federal Judiciary—their highest rating.

Landya is also active in the legal community outside the courtroom. For the past decade she has lectured at continuing legal education seminars on various topics, primarily on legal ethics, and has also presented guest lectures on legal ethics and civil procedure at the University of New Hampshire School of Law.

I am pleased that this morning, after several months, we are finally going to get a chance to vote on Landya McCafferty, who is a well-qualified, noncontroversial district court nominee. She has the support of Senator AYOTTE, who also represents New Hampshire.

I have no doubt Landya McCafferty will be an outstanding Federal district court judge, and I urge my colleagues to support her nomination when the vote comes up this morning.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

Mrs. FISCHER. Madam President, I rise to discuss the nomination of Elizabeth Wolford to be U.S. district judge for the District of New York.

I am new here. I am just completing my first year in the Senate. But I believe this nomination gives us all an opportunity to discuss how government is or is not working in Washington, DC.

I know when I travel the State of Nebraska—and I am back in the State most weekends and put on hundreds of miles; we are a big State, but as I travel the State of Nebraska, people always ask me: How are things going in Washington? How are you doing in Wash-

ington? I can't help but compare what we do in Nebraska to what we are doing now in Washington, DC, because in Nebraska we have a pretty unique system. We are unicameral, we have one house, we are nonpartisan, and we get things done.

We have an agenda set up every day in the Nebraska legislature, and we follow that agenda. We have bills listed. We go through those bills, and, most importantly, we take votes. As a State senator in the State of Nebraska, I have an opportunity to rise and debate with my colleagues on the issues before us. I have the opportunity to sit at my desk in the chamber in the Nebraska capitol and write out an amendment, take it up to the desk, have it discussed, and then have it voted upon.

I believe the Nebraska way is a good example for what we could do here in Washington because we have so many important issues before us that are not being debated. I am speaking basically to an empty Chamber right now. We aren't debating the big issues before this country. We are not acting upon the big issues that are before this country. We certainly are not voting on those issues.

We have a system in the Senate where amendments are not accepted. That whole concept is very foreign to me, because, as I said, in Nebraska we are able to file amendments and we are able to have those amendments voted upon. We also respect the rights of the minority, for although we may be officially nonpartisan, we do belong to political parties. We have a right to express our views on an issue, to represent our constituents, and to express their concerns. Those rights are respected, they are valued, and they are upheld.

I can tell my colleagues I had bills that were filibustered in the State, and those filibusters would last, in one case, 16 hours. But in the end, after those views of the minority were expressed, we took a vote on the issue. In Nebraska, we take up those issues. We defend the rights of our constituents to be heard, and that is what this body should do as well. We should honor the rights of all of our constituents and have their views be heard.

Being from Nebraska, we don't have as many people as some of the other States. But within this body, every Senator is equal. Every citizen has equal representation. That is a principle, and that is a value that must be respected.

I am sorry to say I believe we are at a point where that principle, that value is no longer respected within the U.S. Senate.

I see my colleague from Nebraska is in the Chamber, Madam President. I ask unanimous consent that the Senator from Nebraska and I be able to enter into a colloquy.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FISCHER. Thank you, Madam President.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. JOHANNIS. Madam President, I appreciate the opportunity to enter into this colloquy with my colleague from Nebraska.

We have a rather unique experience. For 6 years I was the Governor of Nebraska, and when Senator FISCHER was elected to the unicameral, I was actually coming to Washington to be the Secretary of Agriculture, so we did not work together. But we both worked in the same system.

I would like to get a legislative perspective about how the Nebraska unicameral works. I saw it from the Governor's office, but, of course, I was not on the floor every day. That is not typically what a Governor would do—to go to the floor every day. But Nebraska is a pretty Republican State. I think we all recognize that. We know that. It is a nonpartisan unicameral. So not only is it a one-house system, but the senators do not run as Republicans or Democrats. They run on a nonpartisan ticket.

I would also say that our voter registration in Nebraska is public record. So, of course, the media, when we would run for office, would always look up how we were registered or they would ask us. I do not remember a time—maybe there was a time, but I do not remember a time—when Democrats had the majority in the unicameral by their voter registration.

I would like the Senator from Nebraska to explain how the majority party, Republicans, worked with the minority party in terms of committee assignments, how they would work with the minority party in terms of chairs. Would a member of the minority ever get a chance to be a chair of a committee? How does that work? And I would like the Senator to talk a little bit, if she would, about how this system works on a day-to-day basis in terms of the relationship between the majority and the minority. Maybe it will be instructive today.

Mrs. FISCHER. Madam President, I am so very fortunate to have Senator JOHANNIS as the senior Senator from Nebraska. He has a wealth of experience as a former Governor, as a former Secretary of Agriculture, and as a U.S. Senator. So he has definitely been a mentor to me. I believe, perhaps, Nebraska can mentor the Senate through the trying times we are facing right now.

As Senator JOHANNIS said, we are nonpartisan. We do not caucus. We do not have majority or minority leaders because we are nonpartisan. So we do not have that leadership structure in our State that we have here in the Senate.

In the State of Nebraska, if you want to be part of leadership, you stand on the first day of a legislative session, and you have to nominate yourself and run for that position. So you would nominate yourself for speaker and then we do a secret ballot. It is 25 votes, and you would be speaker because there are



only 49 of us. Then we go through the committees, and we have 14 standing committees. So as chair of the transportation and telecommunications committee, I had to stand on the floor of the legislature and nominate myself, which is hard to do, but you nominate yourself, and then your colleagues, your peers, decide who the chairman will be.

We had Republicans and Democrats who were committee chairs. In fact, this past year in the legislature, even though officially there is a majority of Republicans, many of our chairmen—in fact, I think it was the majority—were Democrats because you are rewarded for the hard work you do, for your integrity, for your honesty, for being willing to listen to all sides and work with everyone to reach consensus.

So it is a unique system, it works for our State, and it is that ability to work with each other to try and build those coalitions so you can get your 25 votes on an issue, on a bill that you have, that makes us so very special with regard to other States and also with regard to the U.S. Senate, because we do work together.

The coalitions change. The coalitions change depending on the issue. You can find allies all across the spectrum—from more liberal members to more conservative members. If you have a good idea that is going to benefit the people of the State, your peers are willing to come forward and work with you.

I know Senator JOHANNIS as Governor had to draw up budgets and send those budgets, then, to the legislature and have our appropriations committee go through that process dealing with his agency heads. Then the appropriations committee would bring that package to the floor. Here again, we would debate it. I do not know if the legislature always agreed with Senator JOHANNIS during his time as Governor, but perhaps he could give us some insight into how we came together on budgets and were able to work through that as well.

Mr. JOHANNIS. Madam President, I would love to be able to stand here today and say to my colleague from Nebraska that every time I submitted something to the legislature they loved it, blessed it, and passed it. But that did not happen. There was a give-and-take process that would occur. The budget is actually a perfect example. Like this system, the Governor of Nebraska gets the first shot. The Governor, soon after the legislature would go into session in January of each year, would submit a budget. We have a long session. It is a 90-day session 1 year, and then next year it is followed by a 60-day session. In the 90-day session we would do the full budget exercise. Typically, in the 60-day session we would do the fine tuning. It was a biennial budget that would be passed.

I quickly learned if I was going to have any success, whether it was the budget or any other initiative, I had to reach out on an individual basis and

convince each senator of the merits of my idea I was proposing. This was not a situation where I had the ability to go to the majority leader and say: Get your people in line. Crush the minority and pass my budget. That would never happen in Nebraska. It would not happen with the majority—typically that would be Republican in Nebraska—and it would not happen with the minority, which is typically Democratic in Nebraska.

I always said as Governor that most days the one thing that the unicameral could almost unanimously agree upon is that they were mad about something when it came to the Governor. But the reality is we worked through these things. There was give-and-take. There were things that I wanted that I did not get. There were things that I did want that they would have to give in and compromise on. It never failed, we would pass a budget by the end of the legislative session.

I have said many times looking back on my time as Governor that at the start of the legislative session—the 90-day session—there was one thing I could guarantee to Nebraskans. That was that by the end of the session a budget would be passed. The second thing I could guarantee is, without gimmicks, that budget would balance. We had a simple philosophy. We would not spend money that we did not have. No. 3, I could promise Nebraskans that we would not borrow money to make that budget balance because, you see, in Nebraska we are limited by our constitution. We are only allowed to borrow \$100,000, which I am sure when the constitution was written many, many decades ago that was a very handsome sum of money. Today it does not get you very far. So at the end of day we had to balance the budget.

Some of my greatest allies as Governor were Democrats. Some people who fought me the hardest on certain issues were Republicans. But we had to work through that.

I would ask my colleague from Nebraska, does she ever remember a time in the 8 years she was a Nebraska senator where she was in a meeting where her Republican colleagues said to her: Let's figure out a way to silence the minority and get our way on every vote because we have the majority. We could win every vote if we do that. Let's figure out a way to break the rules so we can change the rules so this minority means nothing anymore in this legislative body when it comes to these issues.

I ask my colleague from Nebraska, did that ever happen?

Mrs. FISCHER. Madam President, the people of Nebraska would never stand for that to happen in our State. As I said, we are very proud of our unicameral system and how we are able to work together. Of course, we know who is a Republican and who is a Democrat in the Nebraska legislature. But as I said, we are able to cross that aisle, which does not exist in Nebraska, by

the way. We do not sit separate from each other. We are able to reach out and work together. We have this system that is so open and so transparent. We work with the Governor—or perhaps in Senator JOHANNIS' case not work with the Governor—on the issues. But we are able to have that dialog with our chief executive. We are able to have that dialog with each other.

We have a committee process where every bill that is introduced has a public hearing. Any person can walk into the hearing room and come forward and testify before a legislative committee in the State of Nebraska. Senators then have the opportunity to ask questions to be able to gain more information, not just from people who are invited to come and sit on a panel before a legislative hearing but from citizens who step forward and are willing to take that time away from their jobs, their families. Some may have to travel a great distance since we are a very big State in order to get to the capital to be at a hearing and express their views. I believe in most cases—at least in my experience—every individual who would come before a legislative hearing in the State of Nebraska was treated with respect, whether they agreed with a majority of the members on the committee or they had a disagreement.

It is a respect for those views that are different from your own that I believe is so very valuable as a legislator, to be able to hear, to be able to question.

That is why it truly saddens me that we are seeing a rules change here in the Senate, where I believe the views of the minority will no longer be considered.

It has been my experience here so far that I have been able to have meetings with nominees, nominees who are coming before the committees that I sit on to be confirmed. They come to my office. I am able to ask them questions. I am able to express to them the concerns I have heard from the people in my State and hopefully get answers from them. It does give us an opportunity to establish a relationship where we are going to be able to work together in the future but, more importantly, it gives me the opportunity, as the Senator from Nebraska who happens to be in the minority, to have that chance to question the nominee for Commerce Secretary. With the rules change, now that requires 51 votes, and even as a committee member, those nominees do not even have to come and introduce themselves to me.

That is not fair. It is not fair to the people of my State because every State citizen needs to be represented here in the Senate. That is what is so very—or what used to be so very special about this body.

You look through history—I know Senator JOHANNIS is a great student of history—you look through history and you read about the debates that happened on the Senate floor. I remember

earlier this year when we were all in the Old Senate Chamber and we got to experience that feeling of being open and honest with our colleagues, without the cameras going, and truly being able to air some grievances. I thought that was helpful. It was a very moving experience for me as a new Senator to be there. But I think perhaps the Senator would agree with me that we have lost that spirit of the Old Senate Chamber and of the Senate Chamber in which we are standing.

Mr. JOHANNIS. Madam President, I remember that night well. It occurred just some months ago. The nuclear option was being threatened. Many had worked very hard to avoid that.

Keep in mind that the nuclear option was not just discovered this year or last year; Senators have known of the nuclear option for a long time. We have been down this road before when Republicans were in the majority. Fortunately and wisely, they backed off. A group of I think 14 Senators got together and said: You know, we have to figure out a way to deal with this. And they did. They got a lot of criticism. I remember that. I remember the criticism was that they caved in, they gave in, they compromised, and that they should not have compromised and all of the things that you hear. But at the end of the day, leadership backed off of doing exactly what happened here right before Thanksgiving.

Well, that night we went into the Old Senate Chamber. Anybody who has ever visited that room, you walk in and you feel the history of that place immediately. Some of the great Senators in our Nation's history have spent time in that room arguing for the great causes of the day. It is a remarkable place. The doors were closed. There was no staff in the room. There was no media in the room. There were no cameras recording everything we were saying. This was a meeting of the Senators who were there to try to figure out whether there was a way forward.

I will not talk about the specifics of who said what to whom on this, that, and the other, but I will tell you about the atmosphere. I felt the atmosphere was extremely tense and uncomfortable, especially at the start of the meeting. We were really hopelessly divided on the issues we were facing. But the conversation began. People started making points on all sides of these issues.

In the context of that meeting and some things that had happened previously, a picture started to come together. The picture was that we had agreed as Senators—most of us, not all of us; some had disagreement with what we were doing—that there were certain executive branch appointees that, if there was no objection from any Senator, could move forward through the process really unimpeded. If a single Senator had an objection and said: Wait a second, I have had a dealing with this person, or whatever, that is very problematic, well then

they have to go through the whole process. But we set aside hundreds of executive branch appointees. We said: Look, there is no good reason to force them through this process when there is no objection. Democrats, Republicans, and Independents shook hands on that, and that became the way we operate today.

Another piece of the context was that there was discussion about some things we could do with the rules. At this very lengthy night meeting, like gentlemen and gentlewomen, we shook hands and we had a way forward. It took a while to develop it. It took a while after the meeting to flesh it out. There was give-and-take. Some were concerned that it did not embody what we agreed upon. I personally thought we gave too much on our side, but at the end of the day I thought it made sense as a way forward to avoid the nuclear option. We reached an agreement. As I said, we shook hands. That put the issue to bed.

As I would talk to my colleagues on the other side of the aisle, we would say to each other: You know, that was a good meeting. It has only happened twice since I have been here—once on the START treaty and once on this. We congratulated each other for finding that way forward.

But then we started to hear just a couple of weeks ago that the agreement was not holding, not because either side had violated it but because all of a sudden the majority, led by Senator REID, decided they wanted to revisit this whole issue. I felt we had put the nuclear option in a lockbox, locked it up, and thrown away the key. I felt we had come to an agreement as a Senate that the damage to our Nation and its citizens in employing the nuclear option was too great a price to pay. That is what I came out of that meeting believing. That is what I continued to believe as I talked to my colleagues on the Democratic side of the aisle.

So what happened? If the agreement was not violated, if people were living by the agreement and a whole host of nominees had gone through the process, some of whom I did not like a bit but they got the votes necessary—they were confirmed, they had gone through the process. So what was different about a couple of weeks ago versus when we walked out of that meeting that evening? Well, I would ask my colleague's thought on that, but I think I know what that was about. I am going to continue to talk about this in the days ahead as we talk about this nuclear option and what it is doing to our country.

What happened is this: ObamaCare started to roll out. I remember the day ObamaCare passed. As I said last night, I was sitting in a chair right in front of Senator FISCHER. It was my first couple of years here in the Senate. What happened before Thanksgiving in the breaking of the rules to change the rules reminded me exactly of what happened with ObamaCare. The Democrats

had the votes. It was a very unusual time in our Nation's history. They had 60 Senators and they had the majority in the House and they had the Presidency. Under the rules, they could stop debate and pass anything they wanted to pass. That Christmas Eve day, I remember feeling, as a member of the minority, I was told to sit down and shut up because my viewpoint on ObamaCare meant nothing. What mattered that day was raw, sheer political power. They had the 60 votes. I sat there during the rollcall vote. I heard every Democrat vote for one of the worst pieces of policy ever passed by this body. I felt that day as though I was told to sit down and shut up.

Then a couple of weeks ago, when ObamaCare was literally melting down before our eyes, people were being thrown off their insurance plan, they were beginning to realize what the cost of this was going to be, and they were beginning to realize that the promise that "if you like your plan, you can keep your plan, period" was a political gimmick. It was a lie. They were being thrown off their plans, and they could not even get on the Web site. All of a sudden, our colleagues on the other side of the aisle began to realize their jobs were at stake. Their numbers were crashing. All of a sudden, after we shook hands like gentlemen and gentlewomen after a very tense meeting and we implemented what people agreed would be implemented, we came back to revisit the nuclear option.

I would like to offer one additional thought about what this means. The rules of the Senate have been changed on occasion. It is not something we do very often around here, but on occasion they have been changed. The rules contemplate a way to change the rules: Two-thirds of the Senators have to agree to the rules change.

How did this come about? Let me explain that. The majority leader asked for a ruling of the Chair. Basically, the ruling got to the question of how many votes it takes to confirm somebody. That ruling was properly decided. The majority leader announced: I want to appeal that ruling.

That ruling was, in fact, appealed. How does one successfully appeal a ruling of the Chair with the majority vote, and that is exactly what happened. The Democrats fell in line, and I had the same feeling that day before Thanksgiving that I had on that Christmas Eve Day when ObamaCare was passed. The feeling I had, as a Member of the minority, was that every single Member sitting in those chairs, the majority, the Democrats, were saying to my colleagues and me: Sit down and shut up.

I said last night that I have a tremendous amount of respect for a man who served here for many years with great distinction, admired by everybody. I got to know him a little bit as he had not passed when I came to the Senate. Senator Robert Byrd was probably the finest historian of the Senate,

maybe ever. He would come to the floor and talk about the beautiful history of the Senate, this institution, and the sacred rights of every single Senator to come to the floor, argue, make their point, and offer an amendment.

Under the rules, the amendment doesn't even have to be germane to get a vote on it.

This beautiful institution worked for over 200 years under that rule, under that philosophy. Unbelievable.

It worked through wars, it worked through the 1918 flu pandemic. It worked through attacks on our Nation, 9/11, and Pearl Harbor.

Somehow, some way, great men and women came into this Chamber and figured out a way to make this body work until 2 weeks ago, when by sheer political force the majority pulled out of Pandora's box the nuclear option.

I ask my colleague from Nebraska to offer her thoughts as a new Member. I look forward, as the senior Senator from Nebraska, to watching the junior Senator from Nebraska.

I am not running again. What impact is this going to have? How does the Senator implement the desires, wishes, and dreams of Nebraskans who elected the Senator and sent her to Washington under circumstances such as this?

Does the Senator worry that what is going to happen will not just stop; that it will be Supreme Court appointments at some point and it will be legislative activity. I wish to hear those thoughts.

Mrs. FISCHER. In watching the Senate before I arrived and in studying the Senate throughout history, the beauty of this body has been the individual rights of every single Senator.

With the change we have seen, I believe those rights are diminished, which translates into the people who live in States that are represented by the minority will not be heard in this body.

I have been surprised, I have been shocked, and I have been hurt by comments from the majority, where I am referred to as an obstructionist, where my colleagues on this side of the aisle are referred to as extremists, anarchists.

I don't even know how to respond to the question of the Senator because nothing could be further from the truth. How I view this body is as one that should have an agenda. We should have Members on the floor participating in debates on bills following an agenda and taking votes, but we don't see that.

Instead, we see the two of us and our friend and colleague, the Presiding Officer, speaking to an empty Chamber, speaking to the TV cameras. That is not the way the Senate is supposed to operate. We are supposed to be doing the people's work.

I say to the Senator I don't know what we are obstructing, because as a member of the Armed Services Committee, we passed the National Defense Authorization Act out of committee in

May. We passed that out of committee in May. We could have taken it up in June. We could have taken it up in July, September, and October. Instead, we seem to be in this crisis management mode in one of the greatest bodies in the world. That makes no sense.

I am ready to do the work, but until these bills appear on the agenda, how do we do the work? Why do we wait until we have a few days left in the year to take on what I believe is our most sacred responsibility, the defense of this country, our national security, our military men and women, our veterans.

The committee passed out a great bill in a bipartisan vote. It has passed in the Senate for the past 50 or 51 years. Yet we are against a time limit that was manufactured.

As I said, the bill came out in May. Why wasn't it on the agenda? Why can't we have amendments to it—very important amendments.

I happen to have a good amendment with Senator CLAIRE MCCASKILL, a Democrat from Missouri, and Senator KELLY AYOTTE, a Republican from New Hampshire, that we believe makes the provisions in our committee bill dealing with sexual assault even better, even stronger, that will protect victims. We are not allowed to have that amendment.

Again, that is a foreign concept to me, as a Senator, not being allowed to have an amendment on a bill that should have been brought up on the floor months ago so we could have had a debate on this truly No. 1 priority of our country. Instead we have crisis management.

I don't know about the Senator from Nebraska, but I don't respond well to crisis management. I like to have time to make wise decisions, to have major discussions, to gather information, to represent our constituents, to represent the American people.

The American people demand more. They demand us to be better. I can't even imagine what folks think when they know we are speaking to an empty Chamber, when we should be talking about the big issues of the day, when we should be talking about the National Defense Authorization Act, when we should be talking about sexual assault in the military, when we should be talking about how are we going to make sure our military men and women have the resources they need to keep them safe so they can return to their families and return to their families whole.

We should be talking about Iran. We should be talking about Benghazi, but we are not because we are not allowed to have that legislation before us.

As a new Senator, I can tell the Senator I am very frustrated. I know when the Senator is back in the State he hears, as I do, that the people of Nebraska are frustrated as well. I believe they reflect the views of the people of this country. They expect more from us. They expect us to be better. They expect us to do our job.

How can we do our job when we are not allowed to vote on legislation that addresses the truly pressing issues of our day?

I say to my colleagues on the other side of the aisle, yes, I am frustrated. I am upset. I am angry that I am not able to represent the people of my State by taking a vote, by taking a vote on amendments that all Senators feel are important as well. It is not only Republicans offering amendments that don't get heard, it is Democrats as well.

I would imagine the Presiding Officer is very frustrated. This has to change. I don't know how long it has been going on, but we can change this. We can change this by having an agenda that works, an agenda that brings bills up by a leader who is going to have an open amendment process.

Instead of us coming to the floor and addressing a camera, we need to be able to debate each other and have our voices heard because we are representing those voices back home. They expect that.

We need to do this. Maybe I am naive, but I think we can do it. I think we can still come together and be able to work together. Sometimes we hear the terms "obstructionist," "extremist," and "anarchist." Enough of that.

It is not only Republicans who are demanding their rights and who are exercising their rights. I know we have Democratic colleagues who have put holds on nominations. They are not obstructionist. They are not extremist. They are exercising their rights as Members of the Senate. They are exercising their rights to have questions from their constituents answered.

I will defend their rights to put holds on nominations until they get those questions answered.

We don't always hear about that though. We don't hear that it is all of us in the Senate who have that duty to make sure we can have our constituents' concerns answered; so we can have a project in our State that is being held up for one reason or another addressed; so we can bring forward a question—from our Governor or our State or our State legislature—that an agency has not addressed in a timely manner, and where we as Senators can push a little harder to get an answer from a nominee or an agency. That is checks and balances. That is a balanced government. That is transparency. That is accountability.

It is not allowing the executive branch to get everything they want. None of us gets everything we want.

Senator JOHANNIS made the comment that as Governor it is give and take. As a State senator I can tell you I had to compromise on bills that I thought were great the way I had them drafted, but you need to compromise with your colleagues, with the Governor, and with the President, in order to truly represent all the people in this country.

I am sorry to say this country is polarized. This country is polarized and

the Senate is polarized. If we could show some leadership here—if we can take on these hard issues, make tough decisions, and make hard choices—then we would be good examples to our country and we would have a brighter future. We need to show some leadership. We were elected to make these hard choices for the American people so that we can go forward.

With that, Mr. President, I yield the floor so that my colleague has time to address issues before us.

The PRESIDING OFFICER (Mr. BOOKER). The Senator from Nebraska.

Mr. JOHANNIS. I thank my colleague for being with me for this colloquy. I appreciate so much the legislative experience Senator FISCHER brings to this body. It is very extensive. She was regarded as the leader in the Nebraska unicameral and chaired an extremely important committee. She would be too modest to point this out, but at the time when our road system needed funding, she figured out a way not only to identify funding—and not by raising taxes but by better efficiency and better management, and it was a significant amount of funding—but she then built the coalitions necessary to actually get that passed. Back home, today, that is getting rave reviews. So I thank her for that because I drive on those roads and I know she does too.

My colleague mentioned the Defense bill, and nothing could be a better example of what we are dealing with here. This bill came out of the Armed Services Committee, which has a reputation for being one of the most bipartisan committees in the whole Senate system. It is not about Republicans and Democrats on that committee, for a whole host of reasons. One is there is just great leadership on that committee, and there has been great leadership in the past, but the focus is on the national defense of our United States and our allies.

For 50-some years we have passed a Defense authorization bill. It is one of the things, even when nothing else could get done, that we would get done. The hallmark of that is that it is a very open process. The bill comes out of committee—this one came out in May—and the amendment process starts, and we might go days working our way through that bill. It is very normal. It is very much a part of the process. At the end of it, typically that bill is passed with very strong bipartisan support.

What has happened that we would get a bill in May that has bipartisan support in this committee, it comes out of the committee ready for floor action, and we can't get to that bill except right before the holidays? We all know who controls the floor. Democrats control the floor. They are in the majority. The majority leader, through the election by Democrats, controls the floor. So it feels to me as though we are saying to our United States military: You are not important enough that we would give you 2 or 3 weeks in

June or July, September or October to work through this huge package of spending. In fact, we are going to relegate you to the last hours before the Christmas break. Then the majority leader is going to say to those of us in the minority: By the way, I will pick your amendments. I think some of these amendments are pretty tough amendments for my people to vote on, so I will pick the amendments.

So what has happened to the right of every individual Senator to come to the floor of the Senate and offer their idea on a piece of legislation or, for that matter, any other important issue facing our United States?

This is like sending a message to the military from the Democrat majority that says: Look, you are important enough to get a few hours before we break, and we all go back and enjoy a big ham dinner for Christmas, and we open our presents while you are off fighting in Afghanistan or wherever you have been ordered to serve.

I don't think that is right. There isn't any reason why this bill can't get done. It has been done for 50-some years. What is so tough about it? There isn't any reason why this bill can't get called up in the summer. There isn't any reason why we can't deal with this bill in June. It came out of committee in May. There isn't any reason why we can't use these months leading up to now—the end of the year—to pass this bill.

There are few guarantees in the Senate these days, but one guarantee I can make is that if you allow this Defense authorization bill to go through the regular process, allow Senators to offer their amendments, come to the floor, debate their amendments, and pass or not pass those amendments, at the end of the day that bill will pass.

Instead, what has happened is the bill is put on the floor right before a holiday break and the majority leader says: I will decide whose amendments are going to get heard. I will be the one picking the amendments, and we have to get this done. If you don't agree with the way I want to do things around here, then you are an obstructionist, you are an anarchist.

Wait a second. I should have a say about that bill. It authorizes billions and billions of dollars. I should be able to go home to Nebraskans and say that I gave my best effort with an amendment that I supported or sponsored or whatever, and at the end of the day I won or I lost. After all, that is what they elected me to do.

It is not just what happened with the nuclear option, it is the way this Senate is being operated by those who are in the majority—Democrats. Never in the history of this institution has a leader filled the amendment tree, which is a fancy Washington way of saying I'm taking away the amendments from the minority, more times far and away than any other majority leader. When he does that, when he takes away the right to amend, he si-

lences the minority because we don't control what comes to the floor. We are not in the majority. We don't control when a bill is going to be heard. We are not in the majority. So the only thing we can do as a minority is offer an amendment and plead our case.

Senator FISCHER mentioned a perfect example of the point I am trying to make. She says that she and others, on a bipartisan basis, have an amendment on sexual assaults, which we know is a very serious problem. Now, some might find this surprising, but I want her amendment to go further. I don't think it goes far enough. I don't think she would mind me saying that. I signed on to an amendment offered by Senator GILLIBRAND. I was one of the early ones to sign on. It is a bipartisan amendment, and it has over 50 cosponsors. That is the amendment I want.

I think this is an important issue. I see these young men and women come to my office, and they are proud as proud can be. They have just signed up or they want to go to the military academy, and it breaks my heart to think they may be subjected to sexual assault in the military. I believe we can't be tough enough. I believe we can't work hard enough to create an atmosphere that is so inhospitable to the sexual offender that they would never think of being in the military. I want to go as far as we can and I want to argue that point. I believe there will be Nebraskans that will agree with me and perhaps disagree with me. Why shouldn't we have that bill on the floor?

The PRESIDING OFFICER. All postcloture time has expired.

The question is, Will the Senate advise and consent to the nomination of Elizabeth A. Wolford, of New York, to be United States District Judge for the Western District of New York?

Mr. JOHANNIS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

Mr. CORNYN. The following Senator is necessarily absent: the Senator from Illinois (Mr. KIRK).

The result was announced—yeas 70, nays 29, as follows:

[Rollcall Vote No. 260 Ex.]

YEAS—70

Ayotte	Coburn	Hatch
Baldwin	Collins	Heinrich
Baucus	Coons	Heitkamp
Begich	Corker	Heller
Bennet	Donnelly	Hirono
Blumenthal	Durbin	Johnson (SD)
Booker	Feinstein	Kaine
Boxer	Flake	King
Brown	Franken	Klobuchar
Burr	Gillibrand	Landrieu
Cantwell	Graham	Leahy
Cardin	Grassley	Levin
Carper	Hagan	Manchin
Casey	Harkin	Markey

McCaskill	Pryor	Thune
Menendez	Reed	Udall (CO)
Merkley	Reid	Udall (NM)
Mikulski	Rockefeller	Warner
Moran	Sanders	Warren
Murkowski	Schatz	Whitehouse
Murphy	Schumer	Wicker
Murray	Shaheen	Wyden
Nelson	Stabenow	
Portman	Tester	

## NAYS—29

Alexander	Enzi	Paul
Barrasso	Fischer	Risch
Blunt	Hoeven	Roberts
Boozman	Inhofe	Rubio
Chambliss	Isakson	Scott
Coats	Johanns	Sessions
Cochran	Johnson (WI)	Shelby
Cornyn	Lee	Toomey
Crapo	McCain	Vitter
Cruz	McConnell	

## NOT VOTING—1

Kirk

The nomination was confirmed.

The PRESIDING OFFICER. The nomination is confirmed.

## CLOTURE MOTION

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to report the motion to invoke cloture.

The assistant legislative clerk read as follows:

## CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of Landya B. McCafferty, of New Hampshire, to be United States District Judge for the District of New Hampshire.

Harry Reid, Sherrod Brown, Richard J. Durbin, Christopher Murphy, Robert Menendez, Christopher A. Coons, Angus S. King, Jr., Martin Heinrich, Amy Klobuchar, Dianne Feinstein, Tom Udall, Kirsten E. Gillibrand, Bernard Sanders, Barbara Boxer, Brian Schatz, Robert P. Casey, Jr., Thomas R. Carper, Benjamin L. Cardin, Michael F. Bennet.

## QUORUM CALL

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair now directs the clerk to call the roll to ascertain the presence of a quorum.

The assistant legislative clerk proceeded to call the roll and the following Senators entered the Chamber and answered to their names:

## [Quorum No. 7]

Ayotte	Cruz	Manchin
Baldwin	Durbin	Markey
Barrasso	Enzi	McCain
Baucus	Feinstein	McConnell
Bennet	Franken	Menendez
Blunt	Graham	Merkley
Booker	Grassley	Mikulski
Boozman	Harkin	Moran
Boxer	Hatch	Murphy
Brown	Heitkamp	Murray
Burr	Heller	Nelson
Cantwell	Hirono	Paul
Cardin	Hoeven	Portman
Carper	Inhofe	Pryor
Casey	Johanns	Reid
Chambliss	Johnson (SD)	Roberts
Coats	Kaine	Rockefeller
Coburn	King	Sanders
Coons	Klobuchar	Schumer
Corker	Landrieu	Sessions
Cornyn	Leahy	Shaheen
Crapo	Levin	Shelby

Stabenow	Warner	Wicker
Tester	Warren	
Thune	Whitehouse	

The PRESIDING OFFICER. A quorum is present.

The question is, Is it the sense of the Senate that debate on the nomination of Landya B. McCafferty, of New Hampshire, to be United States District Judge for the District of New Hampshire, shall be brought to a close? The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. HATCH (when his name was called.) "Present."

Mr. CORNYN. The following Senator is necessarily absent: the Senator from Illinois (Mr. KIRK).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 58, nays 40, as follows:

[Rollcall Vote No. 261 Ex.]

## YEAS—58

Ayotte	Hagan	Murray
Baldwin	Harkin	Nelson
Baucus	Heinrich	Pryor
Begich	Heitkamp	Reed
Bennet	Hirono	Reid
Blumenthal	Johnson (SD)	Rockefeller
Booker	Kaine	Sanders
Boxer	King	Schatz
Brown	Klobuchar	Schumer
Cantwell	Landrieu	Shaheen
Cardin	Leahy	Stabenow
Carper	Levin	Tester
Casey	Manchin	Udall (CO)
Collins	Markey	Udall (NM)
Coons	McCaskill	Warner
Donnelly	Menendez	Warren
Durbin	Merkley	Whitehouse
Feinstein	Mikulski	Wyden
Franken	Murkowski	
Gillibrand	Murphy	

## NAYS—40

Alexander	Fischer	Paul
Barrasso	Flake	Portman
Blunt	Graham	Risch
Boozman	Grassley	Roberts
Burr	Heller	Rubio
Chambliss	Hoeven	Scott
Coats	Inhofe	Sessions
Coburn	Isakson	Shelby
Cochran	Johanns	Thune
Corker	Johnson (WI)	Toomey
Cornyn	Lee	Vitter
Crapo	McCain	Wicker
Cruz	McConnell	
Enzi	Moran	

## ANSWERED "PRESENT"—1

Hatch

## NOT VOTING—1

Kirk

The PRESIDING OFFICER. On this vote, the yeas are 58, the nays are 40, and one Senator responded "Present."

The motion is agreed to.

# NOMINATION OF LANDYA B. MCCAFFERTY TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEW HAMPSHIRE

The PRESIDING OFFICER. The clerk will report the nomination.

The assistant legislative clerk read the nomination of Landya B. McCafferty, of New Hampshire, to be

United States District Judge for the District of New Hampshire.

The majority leader is recognized.

Mr. REID. On behalf of the majority, I yield back 57½ minutes.

The PRESIDING OFFICER. Pursuant to the provisions of S. Res. 15 of the 113th Congress, there will now be up to 2 hours of postcloture consideration of the nomination equally divided in the usual form.

The Senator from New York.

UNANIMOUS CONSENT AGREEMENT—H.R. 3548

Mr. SCHUMER. Mr. President, as if in legislative session, I ask unanimous consent that if the Senate receives H.R. 3548 from the House of Representatives and the bill is identical to S. 1689, as introduced, then the bill be considered as having been read three times and passed; and that the motion to reconsider be considered made and laid upon the table, with no intervening action or debate.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. SCHUMER. Mr. President, I wish to thank my colleagues, in the Christmas spirit, despite these contentious times, for letting this bill move forward. Let me just briefly explain.

On Christmas Eve, 2012, nearly one year ago today, the 125-member West Webster Volunteer Fire Association—a volunteer fire department outside of Rochester—faced an unimaginable tragedy when four of their brave members were wounded, two fatally, when they responded to a fire but instead faced an ambush of unspeakable proportions.

While many of our families across our Nation were waking up last Christmas Eve morning preparing Christmas dinner, shopping, wrapping presents or picking up family from the airport, four families in Webster, NY, were instead confronting a heart-wrenching tragedy.

The call of a house on fire came in to the West Webster Fire Department at 5:30 a.m. that morning, December 24. It was a cold, snowy morning, still dark, but the everyday heroes from the West Webster Fire Department courageously did what they volunteered to do on behalf of their neighbors and on behalf of their hometowns. They left their homes and their families to put out a fire.

Instead, this routine call turned into a tragedy which shocked this community and people throughout the country and even the world. What they didn't know was that the fire was intentionally set by the home's owner in order to lure these innocent firefighters into a senseless sniper ambush. The sniper was hiding behind a berm amid the chaos of the fire and began shooting at the responding firefighters.

The firefighters were confused at first to hear popping sounds; they thought it might be the fire, but Lieutenant Mike Chiapperini, who was also a Webster police officer, knew better and shouted to his fellow volunteers to take cover, but it was too late.

Firefighter Hofstetter was shot in the pelvis while trying to alert dispatchers on the radio to the situation.

Ted Scardino was shot in the shoulder, and 5 minutes later shot in the leg. A 16-year volunteer lay there bleeding for an hour, enduring the December cold while sustaining second-degree burns on his head.

Lieutenant Chiapperini and firefighter Kaczowka both died in the ambush.

As news of this horrific senseless Christmas Eve tragedy spread, well meaning people from Rochester, New York State, the Nation, and the world reached out to the West Webster Fire Association to offer their support and prayers.

Not realizing that collecting and distributing the funds to the family would jeopardize the association's tax exempt status with the IRS, the association accepted donations from generous people all around the Nation wanting to help the poor families who suffered so on that day. They collected these donations for the victims and their families. They wanted to give these donations to the victims and their families. It defies reason that they would be unable to do so because of a technicality in the Tax Code.

Just as we did after 9/11 and again after a similar fire department tragedy in California, it is our obligation to make sure the West Webster Volunteer Firemen's Association can now distribute to these families the contributions their neighbors and unknown countless generous others wanted them to have. With the passage of this legislation, that will happen.

I thank my colleagues, particularly on the other side of the aisle. I know these are contentious times, and this was done truly in the Christmas spirit, and I thank them.

#### WOLFORD CONFIRMATION

One more brief moment. We just confirmed to the U.S. district court the first woman to serve on the Federal bench in the Western District of New York, Elizabeth Wolford. She is going to be a great judge. Ms. Wolford is right out of central casting for the role of a Federal judge. Not only will the legal community of Western New York be well served by her ascension on the bench, the entire community will benefit from her leadership, wisdom, and judgment.

It is an honor to have nominated and to now confirm Elizabeth Wolford, the first woman to represent the Western District of New York, a very distinguished bench.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BLUNT. Mr. President, I wish to speak about where we are right now. We are moving toward confirming a number of individuals with the majority deciding that the majority could do that by themselves. Apparently, they had the right to change the rules, which I guess means there really are no

rules and the majority can change the rules any day they want.

What we are seeing now with the health care implementation is what happens, frankly, when one side decides they don't want to make any effort necessary to get even one other person from the other side to agree with them on moving forward with something as big as the health care legislation. That should have been an example to us, but apparently the example was the example that they, the majority, can do whatever the majority wants to do.

Let me share for a few minutes some of the things I am hearing in our office from people who are contacting us to tell us the problems they are having that they didn't anticipate.

This is a letter from Pam from Chesterfield, MO. She says: My husband and I have always played by the rules and carried insurance. I had no idea we were going to have to change plans and go to the exchange, but our provider apparently doesn't want to have individual plans any longer because it is too costly to figure out the complexities that would apply to individual plans.

Then Pam says: At least for now, my husband and I are not getting health insurance, and I guess we have to hope for the best. What a mess, she says. So much for playing by the rules. I never expected the two of us to be uninsured. But, now, she thinks that is what is likely to happen.

Jennifer, a college student from St. Louis said that she initially supported the Affordable Care Act. She worked part-time at a Home Goods store where she had what she thought were great health benefits—or at least the health benefits she wanted—and where she could work as many hours as she wanted. But, she says, because of the health care plan, her employer reduced the maximum number of hours she could work to 24 hours.

So, she says:

My name is Jennifer, a hard-working student from St. Louis, MO, and I would like to share my emerging problems. At first I was supportive of the Patient Protection and Affordable Health Care Act. Insurance for everyone—that sounds so appealing, but now that it has affected my life in a negative way, I am not so sure I can be supportive anymore. I have worked for my employer for almost 3 years while going to school. It has been an excellent place to work until now, and now not only do I not have the health care benefits I had before, but I am not able to work as much as I was able to work before.

Carla and her husband are farmers from Oreck, MO. They farm full-time; neither of them is employed off the farm. They have two sons, one just graduated from college and just went to work; another is a junior in college. They have one full-time employee on the farm. Her family provides their own insurance. In order for them to have insurance they have had a health savings account through Humana. Their deductible is \$10,000, and they still pay a little over \$500 a month or

\$6,057 a year for their family insurance. But she tells me beginning January 1, 2014, their deductible goes to \$12,600. Their premium goes to \$11,422, an 89-percent increase in a family that provides their own insurance. By the way, they provide insurance with dollars they earned and they pay taxes on, so we can add another premium to that and find out how this family, that has done all they could to have insurance for their family, now has an 89-percent increase in their insurance and a deductible they hope they never use. But if they do, it is a big problem if they use that deductible. The deductible is going to be over \$12,000.

If a family is paying \$11,000 for premiums and then they develop health care needs, they pay another \$12,000 before their insurance helps them, that is \$23,000 a year before their insurance benefits them in any way for a family that had insurance coverage that, until right now, they thought was working for them while doing all they could to have it.

Catherine from Springfield, MO, says a few weeks ago she was informed she was going to lose her health coverage because of the President's health care plan. She has been concerned that she might not be able to sign up because the Web site wasn't working. Whether the insurance costs more or not wasn't as big of a concern to her as having insurance. She says: The nightmare that is ObamaCare is going to affect us in a major way, and the stress of what is coming is affecting many people. Not only are we losing health insurance plans we liked, and possibly the doctors we trust, but the new coverage is not as good and it costs us more. This is—to paraphrase the Vice President, "a big deal", she says.

Ken writes:

Dear Senator Blunt. I am writing to inform you of my recent experience with health insurance and the ACA. My wife and I make a decent income but are far from wealthy. On September 30 I received a notice that due to the ACA, my employer-sponsored health insurance plan would no longer be available. Yesterday—after worrying about this since September 30, apparently—yesterday, he continues—I discovered that my employer was able to renegotiate an early renewal and our monthly premium will only increase by 12.5 percent. However—by the way, 12.5 percent is a pretty good increase by my books except the ones that compare what is happening right now. However,

he continues,

I have been made aware that next year my plan premiums will increase by a minimum of 39 percent.

So it increased 12.5 percent this year, and they have already notified this family that their increase will be a minimum of 39 percent next year, and his deductible, according to him, will double. So reading his letter further, he says: So I guess I will not be able to keep my insurance and my costs will not decrease as the President said they would.

Carol from Republic, MO, says her monthly premiums have gone from \$600



to \$800, and the part-time jobs she and her husband both had at the local community college have actually gone down because they are not able to teach as much as they were able to teach before, because the community college has decided they can't let any of their part-time faculty work more than 30 hours. So their income went down, their expenses went up, in both cases because of the President's decisions on health care and the legislative decisions on health care in both cases. We know this has impacted the workplace, part-time workers, people holding their workforce down so they wouldn't be covered, holding their worker hours down so they wouldn't have to pay the penalty if they didn't offer insurance or offer the insurance for the first time at levels they hadn't had before.

Now we are also seeing—not only did the hours of work go down, but the cost of health insurance goes up. Surely, we can come up with a better plan than that.

Christian from St. Peter's, MO, just learned that his wife's employer will start excluding him from their family coverage and that he now has to receive insurance in some different way. It looks like he is going to be able to do that with his employer for \$1,300 more per year. This is actually the best story I have told so far—only \$1,300 that this family used to have to spend for something else, and they are now spending for health care. He says: I am not sure who ObamaCare benefits, but it sure isn't my family.

These stories are just examples of some of the things we are hearing.

Last weekend I noticed that one of the architects of the President's health care bill, Dr. Zeke Emanuel, on Fox News to Chris Wallace, said that what the President really should have said—and this is his exact quote: "If you want to pay more for your insurance company that covers your doctor, you can do that."

I don't know what he is looking at, and some may be able to find their doctor for more money, but in our State some of the health care providers aren't on the exchange.

I read the other day that more than half of the hospitals in New Hampshire aren't on the exchange. So if your doctor happened to work for more than half of the hospitals in New Hampshire, there is no amount of money you can pay on the exchange and keep your doctor, because your doctor is no longer available through the way that you are told by the health care act that you can get insurance as an individual.

The President promised that. He said: My plan begins by covering every American. If you already like your health insurance, the only thing that will change for you under this part is the amount of money you will spend on premiums, and that will be less.

I think we are going to quickly see not only are people losing insurance,

but for most people the premiums are not going to be less and the deductibles are going to be higher, not lower.

This is going to be a story that is going to affect American families as nothing the Federal Government has done in a long time, and maybe nothing the Federal Government has done ever.

If you truly want to impact the lives of families, impact their health care. Somebody told me one time: When everybody in your family is well, you have lots of problems. When somebody in your family is sick, you have one problem.

We are dealing with the one focusing problem for American families: their access to health care that they can afford with decisions they like.

I yield back.

#### PRAYER

The PRESIDING OFFICER. Pursuant to the order of February 29, 1960, the hour of 12 noon having arrived, the Senate having been in continuous session since yesterday, the Senate will suspend for a prayer by the Senate Chaplain.

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal God, who gives us so much more than we deserve, when the days are dreary and the long nights weary, we are still indebted to You for Your generous mercies. May Your blessings provide our lawmakers with the willingness to see and do Your will. Living by the principles of Your sacred revelation, may they do nothing to cause them shame. Give them respect for diverse viewpoints, open their hearts to Your love, their minds to Your truth, and their wills to Your service.

We pray in Your gracious Name. Amen.

The PRESIDING OFFICER (Mr. COONS). The Senator from North Dakota.

Mr. HOEVEN. Mr. President, I rise to continue the discourse my esteemed colleague, the good Senator from Missouri, was engaged in on the Senate floor just a minute ago, talking about the importance—the importance—of bipartisanship as we work to craft policy for this country, policy that all Americans can support and policy that truly moves our country forward.

So whether we are considering nominations or whether we are considering legislation, we need to find ways to come together and come up with solutions that the American people support across the board in a bipartisan way. So as we consider these nominations, we have to consider the fact that now the Senate will be approving these nominations with essentially a 1-party vote, 51 votes.

Right now, the Democratic Party has the majority in the Senate, so they can put judges on the bench, confirm other nominations without any Republican support whatsoever. Of course, under that approach, at some point the re-

verse may very well be true, that nominees may be confirmed—whether it is judicial nominees or other types of appointments—with only Republican votes if the Republicans are in the majority without any Democratic votes. Why does that matter?

Why it matters is because, again, I go back to my earlier statement that in crafting policy, crafting laws and making appointments, nominations to the bench, we need to do it in a way where we garner broad support across the country.

More than 300 million people's lives are affected dramatically by all of these things, by who those appointees are, the offices they hold, what they do with the laws we pass. So if we are going to impact everybody in the Nation with these laws, with these appointments, we have to make sure there is input, consideration by and, if you will, from both sides of the aisle.

That is how we get the kinds of policies and we get the kinds of nominees and we get the kinds of judges and Justices that truly will have the support of people across this great country. I believe that is what we need to truly build the kind of future we want for ourselves and for our prosperity.

As we talk about nominees, we consider also implementation of the Affordable Care Act. This is a huge topic of discussion in our country right now, and it is going to continue to be a huge topic of discussion. You are talking about one-fifth to one-sixth of our economy engaged in health care. So this is something that touches every single American in their daily life in a big way. It is so important we get it right.

As was the case with my esteemed colleague from the State of Missouri, he was presenting anecdotes, presenting stories, real stories, real-life stories, of people who are impacted by the Affordable Care Act and how they are impacted. It is very important we do that because we need to know how people's lives are affected by the Affordable Care Act and what we can do to make sure they have the best health care possible.

By the way, I think of hopefully building bipartisan support to get the kind of health care reform we truly need. I am going to present some of these real-life cases, as my colleague from Missouri just did, and I am going to start with one that talks about the marriage penalty created by ObamaCare, the Affordable Care Act. This is from someone in Grand Forks, ND, who writes in about the marriage penalty created by the Affordable Care Act. This citizen writes:

My husband and I met with the primary health insurance carrier in ND and were told that our current coverage, under the guidelines of the Affordable Care Act, will cost us at least another \$400 more a month, and our deductible will increase from \$2,000.00 to \$12,000.00, and because we are married, we cannot choose individual plans, which would be a much lower deductible. In essence, we are being punished for being married. We are

looking at paying more than \$1500.00/month in health care, because we are only 61 years old and not eligible for Medicare for another 4 years—[that is] \$18,000 a year for health care!

We were told that part of the problem is the provisions in the law require us to choose a plan that has maternity benefits. How does this make sense for seniors to be forced to buy coverage that does not apply to them? We agree that benefits shouldn't be denied to people but it is not fair to be forced to buy coverage that does not apply.

Well, let's delve a little deeper into exactly what this individual is writing about. What is the marriage penalty that is, in fact, created by ObamaCare? Let's talk about that.

The ObamaCare tax subsidies actually create a marriage penalty. They create a disincentive for individuals who are cohabiting to become legally married. From the standpoint of marriage, the subsidies represent a hidden tax on marriage whereby married couples purchasing their coverage on the exchanges will be subsidizing similarly situated but cohabiting single adults who earn the same or more income.

In 2011, the House Oversight and Reform Committee held a hearing on the topic of ObamaCare's penalty against marriage. But since then little has been devoted to this topic in the House or the Senate.

So how does it work? It works through the requirement of household income when calculating the ObamaCare tax subsidy.

For those persons not eligible for Medicare earning up to 400 percent of the Federal poverty level, the law entitles them to a tax subsidy in the form of a refundable credit so long as they purchase their coverage on the ObamaCare exchanges.

To calculate income, however, the law requires the reporting of household income rather than individual income. Household income includes the income of any family member residing in the household, such as a spouse, but not that of a cohabiting unmarried partner.

So when a person shops on the exchange's Web site for a plan, he or she must first provide the financial information and identity of all family members in the household, even if none of those persons intend to purchase their insurance on the exchange because that information is required to calculate subsidy eligibility.

Subsidy eligibility is then calculated using a complicated formula involving household income in relation to the poverty line, family size, and the price of plans offered through a State's marketplace.

The value of the subsidy awarded to an eligible person adjusts on a sliding scale in proportion to household income, up to 400 percent—up to 400 percent—of the Federal poverty level. Above 400 percent of the Federal poverty level, no tax credit. Right.

The marriage penalty results when a spouse's income causes an otherwise eligible individual to no longer be eligi-

ble for the subsidy and could cost a married couple in their household in excess of \$10,000 a year in lost subsidies versus two individuals who are cohabiting but not married.

So let's go through an example.

According to the Kaiser Family Foundation's health reform subsidy calculator, a 62-year-old individual in a high-cost area who earns \$46,000 a year, which is equivalent to 400 percent of the Federal poverty level, would be entitled to \$7,836 in a government tax credit. However, if that same individual earns an additional \$22 or \$46,022 a year—just over \$46,000 a year—which is now 401 percent of the Federal poverty level, they lose the entire credit. They lose the entire \$7,836 credit.

Similarly, any married couple that earns more than \$62,040—400 percent of the Federal poverty level for a family of two—earns too much to qualify for a subsidy. But that same couple if unmarried and cohabiting could earn up to \$45,960 each—or \$91,920 total—and they are still eligible for subsidies in a high-cost area such as New York State, for example.

So the limit for a married couple is just over \$62,000. OK. So for a married couple, you can earn up to \$62,040 before you lose the credit, but it is almost \$30,000 higher for two people living together who are not married. They can earn \$91,920 for an unmarried cohabiting couple. So if you have two people living together, they each get the individual exemption, which is more than \$45,000. So they can earn \$91,000-plus together—they still get the credit—but for a married couple, just over \$60,000. Mr. President, \$62,000 is the limit. So you can earn \$30,000 more if you are living together and still get the credit than you can if you are married. That is the marriage penalty. So why would we design a health care program that discourages or penalizes marriage?

Further, according to the Congressional Budget Office, the tax subsidies are projected to be the biggest deficit-increasing component of ObamaCare, and CBO estimates they will add \$100 billion to the deficit by 2018 and grow even more thereafter. By 2019, CBO estimates that about 19 million people will be receiving the subsidies to purchase their insurance through the exchanges.

As I say, I became aware of this problem when I was contacted by a North Dakota couple. I read that short vignette. We looked into it, and it is, in fact, true. This is just one of the many problems created by ObamaCare, or the Affordable Care Act, which is why Republicans have said: Look. We need to replace this with a comprehensive, step-by-step, market-based approach that truly is focused on competition and choice, that empowers individuals, empowers people across this great Nation to choose their own health care insurance and their own health care plan.

We can absolutely do that. That is why I am here on the floor and others

are here on the floor continuing to talk about Americans and their everyday lives and the challenges they face because of ObamaCare.

I have more of these stories from North Dakotans, people in my State who are facing real challenges because of ObamaCare.

So often we hear: Well, wait a minute, if we are not going to do the Affordable Care Act, if you do not like the Affordable Care Act, then what is your solution?

We continue to put solutions forward, solutions such as expanded health savings accounts, which, combined with high-deductible policies, can create tremendous incentives for young people to purchase health care; more competition across State lines, which can help give citizens more choice and reduce costs; tort reform, which can help bring down cost; reforming Medicare to create the right incentives; giving States more control over Medicaid. The list goes on. We will continue to advocate for those types of solutions—real solutions that empower Americans to choose their own health care insurance and their own health care providers.

Let me read some more letters from North Dakotans who talk about the challenges they are facing because of ObamaCare, the Affordable Care Act.

This individual from Hankinson writes:

I am writing about the health care mess ObamaCare is creating. I am a retired teacher running a daycare with my wife. Hence, I am self-employed. I buy my own health care through Medica. Under the new ObamaCare rules, my monthly premium is going from \$302 to over \$500 per month.

I am 58 years old, not on any medications and have no illnesses. Because of this forced health care, I am supposed to pay a 60-percent increase in health care coverage. If I drop my health care coverage, the government will hunt me down and fine me. Please stop this ObamaCare boondoggle.

From Harvey, ND, a disgruntled grandpa who has to pay for maternity care:

The Affordable Care Act is an excellent example of an oxymoron. Since the Affordable Care Act was passed, my insurance rate has escalated an additional \$4,000 per year, not the \$2,500 reduction that President Obama speculated. I have yet to find anyone whose health care costs have declined. Oh, yes. I just received my cancellation notice from Blue Cross Blue Shield. Thank you very much. I was happy with my Blue Cross Blue Shield plan. I had a low deductible, prescription and hospital coverage, everything that I needed.

Now, as a grandfather, I will be paying for maternity, pediatric dentistry, contraception, drug, alcohol recovery, et cetera. The government has bloated my policy with useless fluff so my premiums will support others' subsidized policies.

The President said, "If you like your health care plan you can keep it. Period." The truth is, if you can't afford health insurance, you can afford ObamaCare if someone else pays the premium for you. Also all of these years I have paid taxes on things that I possess or purchase. Please explain why I have to pay a tax if I choose not to purchase ObamaCare.

From Fargo, ND, a retired couple faced with canceling their own wellness center membership to pay for ObamaCare. This individual writes:

Last week Blue Cross Blue Shield of North Dakota sent my wife and I a letter stating that the health insurance coverage we carry is no longer acceptable or allowable under the new health care law. It was a health insurance package that we had selected after retiring from the field of education 2 years ago. It was a great package for us since we are both in good health. It offers us lower premiums, a higher deductible, which, by the way, we wanted, and more than adequate coverage for us.

Now, we have to look at other more expensive health care packages which we do not want, some of which will include wellness center coverage. Well, we go to a wellness center here in Fargo, pay for it ourselves, and it costs us considerably less than any of the new packages that include it.

So if I have this right, the following needs to take place for us. 1. We can no longer keep our present insurance that we wanted to begin with. 2. We can, however, select another package that will cost us, at the very least, an additional \$1,800 in premiums per year. Remember, this is being paid for out of our retirement check. 3. The plans include a wellness center option, which we currently have at our own expense at a cost of \$600 a year.

So based on the law's requirements, it will cost us another \$1,200 if we discount our current \$600 wellness cost over and above what we now pay. All of this for insurance we do not want. There is an old saying from our neck of the woods: If you want something screwed up, give it to the government. Sorry, but this new law makes that old saying prophetic.

From Bottineau, ND, a couple faces cancer treatment and tripling costs with ObamaCare. This individual writes:

Here is my story on ObamaCare. I have a Blue Cross Blue Shield policy that I have had for many years.

In 2008 my wife was diagnosed with a very aggressive breast cancer. We did all of the treatments, surgeries, et cetera. The insurance paid all but the deductible and the coinsurance, just as it was supposed to. We had no problems. Our deductible has been \$500, with an 80/20 copay up to an out-of-pocket maximum of \$5,000.

Now my wife's cancer has reoccurred and we are starting all over. On the Affordable Care Act policy, to keep my premium close to what we have had, our deductible will be \$4,000 each, and our out-of-pocket maximum will be \$12,500 per year. By the way, the premium will be over \$1,200 per month, an increase of over 140 percent. That is not affordable care.

So which policy is more substandard?

A retired couple from Fargo, ND, writes:

Upon visiting with my Blue Cross Blue Shield rep, he informed me that our present affordable plans—we currently have two single plans, one for each of us—will no longer exist under the Affordable Care Act. We will have to switch over to Blue Direct, which does not allow single plans, but family plans only. This will then force us to pay \$1,200 per month, or \$14,400 per year, compared to our present cost of \$6,000 per year.

Let me repeat that.

This will then force us to pay \$1,200 a month or \$14,400 per year compared to our present cost of \$6,000 per year. What sense

does that make? Why do I want to give up a plan that is one I selected for us, and is very affordable, and change it over for one that will cost us another \$8,400 per year? I can definitely see where this is headed. It will send both my wife and I back to the workforce to be able to pay for a health insurance policy that we do not want.

So why can't I keep my health insurance policy that I already have? I like it. I want to keep it. But Uncle Sam says no. Why? I understand the need to take care of those who do not have insurance and cannot get insurance for medical reasons. But why take away from millions of us that do have insurance and want to keep it?

You have seen that in the numbers, right? I believe Secretary of Health and Human Services Kathleen Sebelius testified in front of the House either yesterday or the day before and indicated that there are something like 360-some-thousand signups for ObamaCare. But the statistics are in the range of 4 to 5 million as far as the number of policies that have been reported as canceled so far since ObamaCare came into effect. These are the real stories behind those statistics. These are the real-life stories of people who have been impacted behind these statistics.

From Bismarck, ND, a young working family has seen their costs skyrocket.

Dear Senator Hoeven, I am a young pharmacist in Bismarck who graduated from North Dakota State University in 2011. I have the job I have always wanted, although it is with a small pharmacy, so my employer cannot afford health insurance for the seven employees who work there. So my family and I went out and did the responsible thing: Qualified medically, back when you had to, and bought what I thought was the perfect health insurance plan.

For the whole family, it was this easy. High deductible. No coverage except preventive, until we paid \$2,500 per person or \$5,000 per family. My premium started out at an amazing \$666 a month in 2011, went up a few dollars in 2012, and increased by 12 percent in 2013 to \$762.30 a month. Still quite affordable.

This year we had our third child, along with experiencing some health issues with one of our other children. My wife obviously met her \$2,500 maximum and ended up needing surgery and nearly died from complications, and spent a couple of nights in the hospital. My insurance worked just like it was meant to. That meant that \$7,000 was paid 100 percent. As of now, we have only paid \$4,100 in out-of-pocket costs. I think that is pretty darn good coverage for that premium.

My policy does not qualify for the new Affordable Care Act regulations. So it will end at the end of April, according to Blue Cross Blue Shield. Fine. Whatever. But what really upsets me is that my current coverage, which assumes a lot of responsibility on myself, falls into the "gold" category on the ObamaCare exchange based on the maximum out-of-pocket limits.

We are a young, generally healthy family. I do not need to save nickels and dimes throughout the year to cover copays and whatnot. I need a responsible limit that I know I am not going to spend over. On the exchange, if I match my same premium, then I end up with a maximum out-of-pocket limit of \$12,700—\$12,700. How affordable is that?

If I want a plan similar to the plan I have now, then I have to spend over \$900 a month, or \$150 a month more. That is \$2,000 per year

more for coverage I do not like. This is very frustrating. Please fix this mess.

From Kensal, ND, this is from a family who is unable to afford the rising premiums.

I just got an insurance letter that said my family's monthly premium was going from \$385 to \$840 per month. I cannot afford that and keep the heat on this winter. That represents over half of my take-home pay. I am now thinking that I will have to get divorced just to keep my health insurance for my three children and my wife. Keep the government shut down forever if this is how you want to treat the hard-working class.

From Donnybrook, ND, self-employed family business owners see rising costs. They write:

My husband and I farm and have three children, ages 4, 2, and 7 months old. Because we are self-employed, we carry our own health insurance. Last week we received notice that our premium will be increasing by 43% due to the Affordable Care Act. We will also be losing the freedom to cater our health plan to meet our individual needs. We are very healthy non-smokers, and our children have yet to see a physician for anything more than a well-child check-up. Our health history is spotless. Our previous premiums were anything but "cheap," making this 43% premium increase unbelievable [to us, and unaffordable].

From Argusville, ND, self-employed face canceled policy. They state:

About a year ago, my husband left his job and started his own computer software consulting company. Contrary to what we have been led to believe, we were able to find affordable insurance for our family. We have three children under 18. We found a family policy for about \$480/month. This past year (2013), it was moderately increased to about \$520/month, which we thought was a reasonable increase. We were very happy with the insurance.

However, today, I received a letter stating that due to the new healthcare law, our insurance premium for the next year would go up to \$918.21.

They are going from \$520 a month to \$918.21 a month.

Continuing:

This means we are facing a \$400/month increase in our insurance premium. This amounts to a \$4,800 tax increase for our family. We are a middle income/small business-owning family. This is an outrageous intrusion by the Federal Government into an area that it had no business going. It WAS possible for the self-employed to get their own insurance. There WAS a safety net through state and Federal programs for people who couldn't get insurance. The Affordable Care Act is not affordable, and was not ever necessary.

What we are seeing is people in all different walks of life in different situations, some working for themselves, some working for small businesses, some working for large companies, some retired, some with kids, and some elderly, but what is the consistent theme? What is the consistent theme? Higher costs, less choice, and not being able to get policies that fit their needs because of this standardization.

From Enderlin, ND, small business loses employee coverage. This constituent writes:

My husband is a Veterinarian who has been in practice for over 40 years. We have 5 employees for which we provide the best health

coverage that money can buy. We pay all their premiums. Last week, we received a cancellation letter from the insurance company. We believed President Obama when he said that because we had insurance for our employees, and because we have less than 50 employees, we could keep our insurance. At no time did we receive information by letter or email or on the Internet about the fact that if you changed anything in your policy you would not be grandfathered in. We had one person retire, hired a new employee, and an employee's husband came onto the policy, changing the deductible, which has meant that we have now lost our insurance. This will mean a much larger premium! We work! We are not happy about this situation. The President lied! This will mean no raises and we will not be able to hire anyone.

Park River, ND, rising costs for the young invincibles.

Our family has had health insurance all of our adult lives. My son, aged 28, also had his own health insurance with Blue Cross Blue Shield of ND. He is single. His policy was cancelled because of ObamaCare. His premiums are now tripled and his deductible will be over \$6,400.00. That is unacceptable. No person can afford to pay a \$6,400 deductible. If he fell into the poverty level to be eligible for the tax subsidy, then he could get better coverage for less money under this law. That is also unacceptable. We all have worked to afford health insurance on our own . . . and now it is not affordable, nor are the deductibles affordable. He was happy with his own policy, one that he could afford, and with better coverage for him. And now the government is mandating what he can afford. How is this acceptable?

I have one more I am going to read from a young family in Thompson, ND. In this case, the family's policy was canceled just before their baby was to be born.

They write:

My daughter and her husband are expecting their first child in January, and on Friday they received a letter from their insurance carrier stating that due to the new health law reform they would no longer be covered. So, in January, when the baby is to be born, they may have no health insurance. Our president stated on more than 28 different occasions that if you liked your health insurance, you could keep it. My question to you is: What are you going to do about it? Will you hold him accountable to his word?

We listen to all these real-life stories from people in my State—and they reflect stories from people across this country—and that is why it is so important that we do get the kind of health care reform that this country needs and that these citizens so very much want. It truly makes a difference. As we debate this important issue, I think it makes an incredible difference.

This isn't me saying "OK, we need to do it" or any one of us saying "OK, this is what we need to do." We are hearing from Americans—in this case, from my State of North Dakota. But as Members come down and speak on the floor on this issue, we are hearing from 300 million Americans across this free country. We are hearing real stories about real hardship and what they are going through.

I go back to where I started this discussion; that is, why it is so important

that as we approach these issues we take a hard look at ObamaCare and the Affordable Care Act. It was passed with only Democratic votes, no Republican votes whatsoever.

It is as I said before: If we are going to get the kinds of policies that truly work for the American people, we have to come up with policies that can garner bipartisan support, support from both sides of the aisle. I truly believe they have to be the kinds of policies that empower our people, that empower our people to choose their own health care provider, that empower them to choose their own health care insurance.

I go back to the types of solutions I talked about earlier. These are the kinds of solutions that we have put forward in legislation, that we will continue to put forward in legislation, and we ask for Members of this body and the House to join us on a bipartisan basis and pass market-based solutions that truly empower people. These are such things as expanded health savings accounts combined with high-deductible policies.

Think about young people going out into that market and buying health care insurance, maybe for the very first time. Maybe they have been operating without health care insurance and they say: You know what. I have to get health care insurance.

Think about it. Think about what works for them. If we take a health savings account, a high-deductible policy, low premium—they are healthy, don't think they are going to get sick—that is the kind of thing that will encourage them to buy health insurance. If they have more choice and more competition, not only are they going to get it at a more affordable price, but they are going to have more options from which to choose. Likewise, let's make sure we provide for more competition across State lines so they are not only then looking at companies in their State but companies from across the country. More choice and more competition brings down prices.

As we look at health care costs, let's look at tort reform. There is no question that lawsuits are driving the cost of health care higher. We can do something about that.

Affordability is a huge issue we have to address as part of the right kinds of reforms for health care. When we talk about reforms, we have to reform Medicare to create the right incentives.

What do I mean by that? Now, under Medicare, if someone lives in a State where they have high costs, regardless of outcome, the Federal Government provides more reimbursement under Medicare in that State than they do in a State that has lower costs even though they may have better outcomes. Does that make sense? Think about it. Think about that for a minute.

A person has Medicare—and it is vitally important health care for seniors across this Nation, but the incentive is

not to reduce costs. The way the program works, it actually increases cost because States with higher costs, regardless of outcome, get more reimbursement under Medicare than States with lower costs even if the States with the lower costs have better outcomes.

Let's reform Medicare to have the right kinds of incentives, to encourage savings, to encourage better outcomes, and to encourage preventive care. We can do that. That is a win-win. We get better care at a more affordable price, and we help address the debt and deficit of this Nation. Those are the kinds of reforms that work for Americans.

For Medicaid, Medicaid provided for individuals with low income, let's empower the States. Let's give the States more flexibility, more control. Rather than a Federal one-size-fits-all, give those States more control to truly not only improve health care outcomes but to do so at affordable costs, and reward them for controlling costs.

These are the kinds of solutions that will not only produce better health care that I believe our providers can get behind and support because it rewards them for managing costs and good outcomes, which is what we want, but it also truly is how we address the deficit and make sure we save these programs—Medicare and Medicaid—and keep them sound for the future so that we not only can rely on them today but for years to come. We make sure that we save and protect those programs by creating the right kinds of reforms. Those are the kinds of reforms that truly empower people and give them the opportunity—which I think we all want—to choose their own health care providers and their own health care insurance.

As we go through these issues, again, I want to emphasize the need—and I come back to the reason I am on the floor—not only to talk about the right kind of health care reform but to go back to the issue before the Senate today: the nominations that we face and determining how we come together as a Senate, as a body, and we get Members on both sides of the aisle who come together and say: OK, how do we make sure that we have bipartisan solutions, that we create a bipartisan Senate where we are making sure that, as we look at confirmation of these nominees, there is an investment from both sides in getting it right and that there is input, deliberation, consideration, and debate on getting it right for the American people?

Whether it is health care, whether it is energy, whether it is good ag policy, whether it is law enforcement, whether it is support for our military, whether it is anything else, how do we make sure that all of us—because it is incumbent upon all of us—how do we make sure we have protected what this institution has provided for since the inception of our country; that is, bipartisan consideration, deliberation, and debate that produces the best outcome for the American people.

We have nominations that we are going through now and that we will continue to go through. We have important policy matters we need to get done now for the American people, such as a budget, Defense reauthorization for the defense of our Nation, a farm bill that needs to be passed, and an energy policy that we need to address—all things that can truly move our country forward. As we do that, we need to come forward with solutions that will truly be bipartisan. To do that, we need to have a very sincere and direct dialog as a body and Member to Member to come up with solutions to determine how we are going to make sure we are doing the very best job for the American people. That is what this is all about. We are here to do the work of the American people.

And you know, we look across this vast, wonderful Nation, and there are people who are Democrats and people who are Republicans and people who are Independents, and we serve that whole spectrum. We serve them all. We are faced with a real challenge right now to make sure that bipartisanship continues in this Senate and in this Congress.

I am going to turn to another matter before us that is incredibly important. It is a matter that is truly bipartisan. It is bipartisan, and I am going to use this as an example of how bipartisanship can and does work in this body and in the House. It is a matter we should be voting on right now, and I sincerely hope we will be voting on it in a few short weeks when we return, and that is the farm bill.

I am a member of the Agriculture Committee, a member of the agriculture appropriations subcommittee, and I am also a member of the conference committee that is working to reconcile the differences between the farm bill that has been passed in the House and the farm bill that has been passed in the Senate. I bring up this example purposely, because we are focused on how we operate in a bipartisan manner to meet the challenges this Nation faces, and we are at a point where we need to redo the farm bill. We need to put a new long-term, 5-year farm bill in place. Right now we are operating under an extension. I use this as an example of a truly bipartisan approach.

I use the farm bill for another reason too. As we go through this process, where confirmation of nominations are now being done essentially on a partisan basis—not a bipartisan basis but on a partisan basis—and as we talk about ObamaCare, which was passed on a partisan basis—not a bipartisan basis—I want to bring up an example of how things should work on a bipartisan basis.

When we look at the farm bill, the breakdown in terms of how the votes have gone, it hasn't been Republican and Democrat. We have had both. We have had some Republicans and Democrats voting against it and some Re-

publicans and some Democrats voting for it. It really is focused on what is the policy and what best serves this great Nation.

Here is the other reason I bring it up right now. We are trying to address the deficit and the debt this country faces; right? This year CBO says the deficit is going to be somewhere between \$650 billion and \$700 billion—the deficit. The debt is \$17.3 trillion. We must address the deficit and the debt. So as we work on a new farm bill, we are not only reforming the current farm bill, which is operating under an extension, we not only make reforms that make for a better farm program, but we are going to save on the order of \$25 billion to \$30 billion to help reduce the deficit and the debt.

Isn't that what we should be doing across government on a bipartisan basis—coming up with better policy that actually reduces the deficit and the debt, controls spending, reduces spending and helps our economy grow? That is what we are doing with the farm bill, and that is what we should be doing in these other areas as well.

So as we continue to work on the farm program, I had hoped we could be to the point where we would be voting this week or next on the Senate floor and in the House as well. It doesn't look like that is going to happen, but we are very close. We can have a framework in place this week or next so that we can vote on it as soon as we return in January, and that is what we need to do.

The current farm bill, the current extension, expires at the end of the year, meaning we need to get a new farm bill in place—not an extension but a new farm bill. We have put the framework in place. We are there. We now just need to get people to agree and we need to get the bill to the House and to the Senate floor. I believe we are absolutely there. We just have to have the will to make it happen and to make it happen on a bipartisan basis. Not only is it vitally important we pass this farm bill, but it truly can be an example in terms of how we approach other policy as well on a bipartisan basis.

At this point, Mr. President, I see the leader is here and I would ask of the Chair as to my time allotment and also the time for the next vote.

The PRESIDING OFFICER. All time has now expired.

The question is, Will the Senate advise and consent to the nomination of Landya B. McCafferty, of New Hampshire, to be United States District Judge for the District of New Hampshire.

Mr. WICKER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CORNYN. The following Senators are necessarily absent: the Senator

from Mississippi (Mr. COCHRAN) and the Senator from Illinois (Mr. KIRK).

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 79, nays 19, as follows:

[Rollcall Vote No. 262 Ex.]

#### YEAS—79

Ayotte	Grassley	Murphy
Baldwin	Hagan	Murray
Baucus	Harkin	Nelson
Begich	Hatch	Paul
Bennet	Heinrich	Portman
Blumenthal	Heitkamp	Pryor
Booker	Heller	Reed
Boxer	Hirono	Reid
Brown	Isakson	Rockefeller
Burr	Johnson (SD)	Rubio
Cantwell	Johnson (WI)	Sanders
Cardin	Kaine	Schatz
Carper	King	Schumer
Casey	Klobuchar	Shaheen
Chambliss	Landrieu	Stabenow
Coburn	Leahy	Tester
Collins	Lee	Thune
Coons	Levin	Toomey
Corker	Manchin	Udall (CO)
Cruz	Markey	Udall (NM)
Donnelly	McCain	Warner
Durbin	McCaskill	Warren
Feinstein	Menendez	Whitehouse
Flake	Merkley	Wicker
Franken	Mikulski	Wyden
Gillibrand	Moran	
Graham	Murkowski	

#### NAYS—19

Alexander	Enzi	Roberts
Barrasso	Fischer	Scott
Blunt	Hoeven	Sessions
Boozman	Inhofe	Shelby
Coats	Johanns	Vitter
Cornyn	McConnell	
Crapo	Risch	

#### NOT VOTING—2

Cochran Kirk

The nomination was confirmed.

#### CLOTURE MOTION

The ACTING PRESIDENT pro tempore. The cloture motion having been presented under rule XXII, the Chair directs the clerk to report the motion to invoke cloture.

The assistant legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of Patricia M. Wald, of the District of Columbia, to be a Member of the Privacy and Civil Liberties Oversight Board.

Harry Reid, Sherrod Brown, Richard J. Durbin, Christopher Murphy, Robert Menendez, Christopher A. Coons, Angus S. King, Jr., Martin Heinrich, Amy Klobuchar, Dianne Feinstein, Tom Udall, Kirsten E. Gillibrand, Bernard Sanders, Barbara Boxer, Brian Schatz, Robert P. Casey, Jr., Thomas R. Carper, Benjamin L. Cardin, Michael F. Bennet.

#### QUORUM CALL

The ACTING PRESIDENT pro tempore. Under rule XXII, the Chair directs the clerk to call the roll to ascertain the presence of a quorum.

The assistant legislative clerk proceeded to call the roll and the following Senators entered the Chamber and answered to their name:

[Quorum No. 8]

Alexander	Franken	Merkley
Ayotte	Gillibrand	Mikulski
Baucus	Grassley	Murkowski
Begich	Harkin	Murray
Bennet	Heinrich	Paul
Blumenthal	Heitkamp	Portman
Booker	Heller	Pryor
Boozman	Hirono	Reid
Boxer	Hoeven	Rockefeller
Brown	Johnson (SD)	Rubio
Cantwell	Kaine	Schatz
Cardin	King	Schumer
Carper	Klobuchar	Sessions
Casey	Landrieu	Shaheen
Coburn	Leahy	Shelby
Coons	Lee	Stabenow
Corker	Levin	Tester
Cornyn	Manchin	Thune
Crapo	Markey	Toomey
Cruz	McCain	Udall (CO)
Donnelly	McCaskill	Udall (NM)
Durbin	McConnell	Warren
Feinstein	Menendez	Whitehouse

The ACTING PRESIDENT pro tempore. A quorum is present.

The question is, Is it the sense of the Senate that debate on the nomination of Patricia M. Wald, of the District of Columbia, to be a Member of the Privacy and Civil Liberties Oversight Board, shall be brought to a close?

The yeas and nays are mandatory under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Mississippi (Mr. COCHRAN) and the Senator from Illinois (Mr. KIRK).

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 57, nays 41, as follows:

[Rollcall Vote No. 263 Ex.]

## YEAS—57

Baldwin	Hagan	Murphy
Baucus	Harkin	Murray
Begich	Heinrich	Nelson
Bennet	Heitkamp	Pryor
Blumenthal	Hirono	Reed
Booker	Johnson (SD)	Reid
Boxer	Kaine	Rockefeller
Brown	King	Sanders
Cantwell	Klobuchar	Schatz
Cardin	Landrieu	Schumer
Carper	Leahy	Shaheen
Casey	Levin	Stabenow
Collins	Manchin	Tester
Coons	Markey	Udall (CO)
Donnelly	McCaskill	Udall (NM)
Durbin	Menendez	Warner
Feinstein	Merkley	Warren
Franken	Mikulski	Whitehouse
Gillibrand	Murkowski	Wyden

## NAYS—41

Alexander	Fischer	Moran
Ayotte	Flake	Paul
Barrasso	Graham	Portman
Blunt	Grassley	Risch
Boozman	Hatch	Roberts
Burr	Heller	Rubio
Chambliss	Hoeven	Scott
Coats	Inhofe	Sessions
Coburn	Isakson	Shelby
Corker	Johanns	Thune
Cornyn	Johnson (WI)	Toomey
Crapo	Lee	Vitter
Cruz	McCain	Wicker
Enzi	McConnell	

## NOT VOTING—2

Cochran	Kirk
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The ACTING PRESIDENT pro tempore. On this vote the yeas are 57, the nays are 41. The motion is agreed to.

# NOMINATION OF PATRICIA M. WALD TO BE A MEMBER OF THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD

The ACTING PRESIDENT pro tempore. The clerk will report the nomination.

The bill clerk read the nomination of Patricia M. Wald, of the District of Columbia, to be a Member of the Privacy and Civil Liberties Board for a term expiring January 29, 2019.

The ACTING PRESIDENT pro tempore. Pursuant to the provisions of S. Res. 15 of the 113th Congress, there will now be up to 8 hours of postcloture consideration of the nomination equally divided in the usual form.

The assistant majority leader.

Mr. DURBIN. Mr. President, I yield back the majority's time on this nomination.

The ACTING PRESIDENT pro tempore. The time is yielded back.

The Senator from Ohio.

Mr. PORTMAN. Mr. President, I would like to speak on the nomination.

The ACTING PRESIDENT pro tempore. The Senator is recognized.

Mr. PORTMAN. Mr. President, I am glad to have this opportunity to come to the floor of this great body to talk about issues that are of great concern to the people of Ohio whom I represent and to the country. We are facing a lot of challenges right now. Certainly health care costs are on the rise, as we have seen, but jobs are also hard to come by.

There is a middle-class squeeze going on out there where paychecks are down and health care costs are up, and belief in the American dream, as a result, is on the decline. Some say for the first time since polling has begun people think that future generations are not going to be as well off as we are. This is sad, and there is work we can and should do to address this.

It starts with dealing with some of the gridlock in Washington and getting some things done. One of my concerns about what the majority has done in terms of taking away the rights of the minority to be heard on nominations is creating a very tough environment to breakthrough that gridlock and get things done.

I think about the judiciary. Today we are talking about a court judge who is up for a nomination and the question is whether she is going to be confirmed. Right now, under the current rules that exist, Republicans have no voice, in essence, because the 50 votes from Democrats—and there are 55 Democrats—can put up a judge and get the votes and put anybody through they want.

Under the system that has prevailed in this body for decades, and one consistent with the intention of the Founders, you have to get 60 votes. In other words, the minority would have some voice, and specifically Republicans, in that there are 45 of us and we would have to supply about 5 votes. That makes a big difference in terms of

the kinds of judges who are nominated and ultimately confirmed.

There has been a lot of discussion about what is going on here on the floor in terms of ending the ability of the minority to have their voice heard. I think we also need to focus a little on what impact this will have on the judiciary.

When someone is appointed to the DC Circuit Court—somebody was recently confirmed yesterday and the day before for that body—these are lifetime appointments. Instead of having to go through a process where you have to figure out how to get some Members of the other party to support you, right now—under the new rules that were done by breaking the rules, and again, inconsistent with the intent of the Founders who allowed their voices to be heard—they don't have to get the minority. They can do it with just 50 votes. Again, with 55 Democrats, there is no need to consult with Republicans or to get any support. In fact, they can allow five Democrats to vote the other way.

I worry this will polarize the judiciary. I think we are polarized enough in this place. I think Washington is becoming dysfunctional for a lot of reasons, but one is this increased polarization. Now to have this rule change only creates a difficult environment to get work done, but it will also put judges on the judiciary with lifetime appointments; these judges who, frankly, are more liberal under the Democrats and more conservative under the Republicans than they would otherwise be.

In States such as mine where there is a Republican Senator and a Democratic Senator, we work together to try to put judges forward. Democrats realize in the majority they have now, they have to get some Republican support, so they work with us. You tend to get center-left judges nominated and confirmed right now.

Again, under the new rules that Leader REID and the Democrats have insisted on, that will not be required. Why would you have to consult and work with your counterpart in your State or Republicans on the other side of the Chamber?

When there are 50 votes, you can put forward any judge you want. I do think this will result in judges who are not center left but left and not center right but right. This will polarize the judiciary more, and that concerns me.

I hope, as we are thinking about how we deal with our own procedures—and I know this is an issue that has been debated a lot in the last few weeks because of the decision the Democratic leadership made to take away this right—we also think about what impact this will have on the judiciary. Do we want a more polarized judiciary where some of these ideological differences make it difficult for them to operate just as it makes it difficult for the Congress to operate? I don't think so.

I don't think that is what the American people want, and I know it is not



what the Founders intended when they gave the minority a voice in this body, and I hope we can get back to a regular order where we have a limitation on amendments that is reasonable with reasonable time limits so we can get our work done.

Let's allow amendments to be offered. Let's allow the voices to be heard. Let's allow—in the case of these nominations—input from the other side.

I am very concerned about where this is headed. The logical extension of what the Democrats have done, of course, is to extend this to legislation as well, which I think creates more of a problem than we have already in terms of legislation being passed here that is not reflective of the will of the people, that is not subject to the checks and balances we would have under a rule where we have to get 60, not 50, votes in order to pass legislation.

A prime example is ObamaCare. Let's be honest. The reason it got through the Senate was because a special provision was used called reconciliation, which is supposed to be used for budget matters, revenues, and spending.

I believe that was an inappropriate use of reconciliation as do many other observers who are objective observers and have followed this place for a long time.

ObamaCare was pushed through, not with 60 votes—because after the election of Scott Brown in Massachusetts, they didn't have 60 votes to get ObamaCare through because not a single Republican would support it because Republicans supported an alternative plan. So without a single Republican supporting it, Democrats chose to ram it through with 50 votes. That is all they needed because they used this so-called reconciliation provision that, again, is supposed to be for budget issues, not health care.

I think the results are now plain to see. We have law in place that is affecting my constituents and affecting the constituents of every Senator, that has very negative consequences. Did we need to do something to reform the health care system? Yes. Was the status quo acceptable? No. Is it acceptable now? No.

There are smart reforms to reduce costs, smart reforms add more choice, to allow markets to work better in health care, to not only provide for better quality and better choice but also lower costs. Those were not pursued. We still have the opportunity now to do that.

I talked earlier about the fact that health care is a big concern to the American people. It certainly is among my constituents in Ohio. We do a tele-townhall meeting periodically. We had a couple of them last month where I will get maybe 25,000 Ohioans on the phone at any one time and talk to them about the issues of the day and hear their questions and concerns.

During the tele-townhall meeting, we ask a poll question, such as what is the

most important issue you think is facing the country? We ask whether it is national security and terrorism, energy policy and costs at the pump, health care and health care costs, jobs and the economy, or some other issue.

It is interesting in that every single tele-townhall meeting I have had over the past few years has always been that jobs and the economy is the No. 1 issue. Again, there may be 25,000 people at any one time. When we asked the poll question, that has been the No. 1 question. Usually the No. 2 issue is debt and deficit and spending.

The last two tele-townhalls we did last month—guess what the No. 1 issue was. It was not jobs and the economy or debt and deficit. It was about health care because people are so concerned about what ObamaCare is doing to them and their families.

I will let them speak for themselves. Some of us were on the floor a few weeks ago talking about this, but since that time I have received a lot of stories from people I represent.

Here is one from Susan from Batavia which is in Clermont County in southern Ohio. She says:

I am a single mom. I pay for my own health insurance. I am active and fit. I have cycled over 4,000 miles this year. I am seldom sick. In the 3 years I have paid for my own insurance, I went to the doctor once for illness. My rate was \$146 a month. In September I received a letter from Anthem saying that my plan does not meet the requirements of the Affordable Care Act and will be discontinued as of January 1, 2014. I was offered the same coverage I had—not for \$146 a month but for \$350 a month.

To Susan from Batavia, thanks for your story and letting us know what is happening and how this is affecting you as a single mom who is taking care of herself, doing the right things, and had a plan that worked for her and was told, no, the government knows best. You can't have your plan. Here is the plan you have to have, and in order to have comparable coverage we are going to raise your rates by over double.

This is from Mike from Westlake in northeast Ohio. Mike says:

I own a small business. Our health insurance rates for single employees under 30 went from \$198 per month last year to \$650 per month this year. That is a 260-percent increase thanks to ObamaCare. This bill is going to put small businesses out of business.

Here is one from William from Columbus, OH:

We were paying \$540 per month but received a letter from Anthem stating that the rates would increase to \$662 per month beginning September 2013 and then \$1,014 per month in September 2014 as a result of the requirements per ObamaCare. If that wasn't bad enough, our family doctor of 25 years informed us that he will end his practice on January 1, 2014. The reason being is the government requirements of ObamaCare just made it too difficult to continue.

That is William from Columbus, talking about an issue of price, obviously, going from \$540 a month to \$1,014 per month. But it is also about choice because his doctor is stepping out because of ObamaCare.

Rachel from Solon says:

My family owns a small business. We were notified that our current health care plan is substandard at \$860 per month. To comply, we now must pay \$1,880 a month. This is beyond outrageous.

That is what Rachel says. I agree with her: \$860 to \$1,880 per month—more than double—in order for her to have health care as a small business owner for her and her husband.

Jon from Dublin:

We currently have a high-deductible plan from Anthem and pay \$331 per month. We are perfectly happy with our plan. It provides wellness visits for free, which is what we really need, and then catastrophic coverage in case of something very unpleasant. When I recently reviewed our coverage and tried to renew it, I asked what an equivalent plan would cost under the exchange. The quote I received was for \$833 per month.

Remember, he was paying \$331 per month. He likes his plan with wellness visits and catastrophic coverage. It goes from \$331 per month to \$833 per month.

Back to his letter:

The deductible even went up from \$11,000 to \$12,700.

So this notion that people have to get out of these plans because their deductible is too high—the one that is acceptable based on ObamaCare and this top-down approach is now a higher deductible.

He says:

My family simply cannot afford this plan.

Here is Sarah from Raymond, OH. Sarah writes—and this is painful. These are painful. But Sarah writes:

I am literally crying right now because of our insurance. My family's new monthly cost starting January 1 is \$323.82 biweekly and \$647.64 a month, a difference of \$420 in what we currently pay, and the new plan offers less with more out-of-pocket expenses. The ACA has failed and it is hurting my family, not helping.

Here is Chuck from West Chester:

I tried to give this health care thing the benefit of the doubt. I went to the Web site and all the estimates are more expensive than my canceled policy. My canceled policy was not only cheaper; it was better, and I don't qualify for any subsidies. Do I have any choice besides paying more money?

Chuck, I am probably not qualified to give advice, but I will anyway. Your choice is to pay a penalty or pay more. That is what the government is telling you. That is what ObamaCare is telling you.

Cynthia from Canton, OH:

I am a substitute teacher. Recently I received notice that I was not getting jobs every day like I have been for most of the past 13 years. I am a good, dependable sub, and I work for \$70 a day before taxes. I contacted the school system and was told that they are watching any sub to prevent over 30 hours a week because of the Affordable Care Act.

Cynthia's letter to me, unfortunately, is something that I am hearing all over the State of Ohio. It is that people are being told: We need to keep you under 30 hours. She is finding out

as a substitute teacher in Canton, OH, that she can't get the jobs she used to get because they are telling her they want to watch the subs to prevent anybody getting more than 30 hours a week because of the Affordable Care Act. My colleagues probably know this: Under the act, if a person works over 30 hours a week, that person is considered full-time; therefore, the company has to provide the health care insurance that, again, this top-down approach insists on; not the health insurance you may want or your employer may think is appropriate, but the health care insurance that the Affordable Care Act thinks is appropriate. So companies are telling folks, as in the case of this substitute teacher—private and public sector—we need to keep you under 30 hours because we simply can't afford that kind of health care.

Here is Mark from Urbana, OH:

My wife and I are farmers. We have our own private health insurance, which is not cheap. We just learned that our insurer is canceling our plan and that the ObamaCare plan will double our premiums to more than \$1,000 per month. My wife is 55 years old. We do not need maternity coverage or free birth control or so much other coverage mandated by ObamaCare. We are modest, middle income people. What we need in this country is a policy to make health care more affordable. We can do this if we let Americans determine their own health care needs and shop for the best and most affordable care. Why not medical savings accounts for everyone? They would be privately owned so that no one is chained to their employer-sponsored plan. Why not require that health care providers post prices of their services? We can come up with much better alternatives to ObamaCare. Please help us.

I agree with him. We can come up with much better alternatives, including letting people save money for their own health care. Why should we want to discourage that? By the way, those HSA savings accounts that Mark is talking about that he would like to see for everyone, those are made less attractive because they take away some of the health care tax benefit.

So we are moving the wrong way. We are moving away from people taking care of their own health needs and encouraging them again to focus on wellness and prevention, understanding that it is their dollar that is at stake and allowing them to build up a little nest egg if they are healthy and if they are able to avoid a health problem, and if they do have a problem, they have coverage, with a high deductible, and they have coverage to take care of it. People should be able to make that decision on their own if that is what is best for them and their family.

Here is Brian from Mentor:

My family's Aetna plan has been canceled due to ObamaCare. My old plan was \$454 per month with a \$5,000 per person deductible. The same deductible policy to buy a new plan is \$1,038 per month—

more than double for Bryan.

Dean from Sandusky:

Ever since I lost my job in 2009, I have been purchasing my own health insurance. Last month, I received a letter in the mail stating

that my plan is being canceled due to the ACA. I was told to look at plans on the exchange, which I did, and found a comparable plan that is over twice the cost of what I now have. In addition, this is over half of my monthly pension. I simply cannot afford this.

I have always been a responsible, hard-working, self-dependent person. Now, because of the actions of our government, for the first time in my life I will not have health care coverage. I am 59 years old now and I need this coverage. I am outraged, to say the least. How can our government do this to us? I will remember this come election time.

That is Dean from Sandusky. He lost his job and picked up a plan on the individual market that worked for him. He is now going to have to pay twice as much. He can't afford it. He is not covered. He is on a fixed income. It sounds as though he is going to go without coverage.

By the way, new polling data is out showing that a lot of young people are going to go without coverage. One number is 28 percent of them are; another number is closer to half. I don't know how many. But a lot of young people I talk to say they would rather pay the penalty and take the risk than be covered. That is a problem for them, but it is also a problem for the Affordable Care Act because it is based on those people coming into the system and, frankly, providing the ability for others to get coverage under the risk pools that are set up under ObamaCare.

So the stories I have told are real people facing real problems and they are problems that Washington created for them and their families. They were fine with their coverage. They liked their coverage. I know my colleagues on the other side of the aisle have their own stories about people who are getting coverage and benefiting from it, particularly those with preexisting conditions. I understand that. But these stories really obscure the question we should be debating on the floor. I agree we should cover people with preexisting conditions, and so do most Republicans. The question is how do we do it.

So when Democrats come to the floor and tell me, Rob, you have all of these stories about people who cannot afford health insurance anymore and are having a really hard time on the individual market, but we will tell our stories of folks with preexisting conditions, my answer is that I also believe we ought to cover those people. I don't dispute that. We want to get coverage for more Americans. That is not the question we are debating. The real question is whether ObamaCare, with its mandates, its top-down, centralized controls is the way to accomplish those goals.

If the President and my friends on the other side of the aisle believe that the only way to increase coverage is to make everyone to pay more, to force millions of Americans to give up their insurance, to make people lose their doctors, then they should say that is what their plan is because that is what is happening.

A lack of honesty and transparency, in my view, is one of the great failures of the Affordable Care Act. I believe ObamaCare was sold to the American people under false pretenses. President Obama famously said, "If you like your health care, you can keep it." He said, "If you like your health care, you can keep it, period." But the one thing he could not do then was keep his word. He had to have known it then. All of the information coming out indicates that was knowledge he should have had, yet he kept saying it. What began as a broken Web site and cancellation notices has turned into sticker shock for millions of Americans who are seeing their health care costs soar under ObamaCare. By the way, as I said earlier, these rising costs are not a mistake in ObamaCare; they were intended in ObamaCare. Under ObamaCare, millions of Americans have to pay more for insurance in order for the program to work. The Web site can be fixed. I assume it will be at some point, although they are certainly having a tough time with it. But this basic premise that is the heart of ObamaCare that other people's costs have to go up, and pretty dramatically, cannot be fixed.

The reason goes back to a critical choice made at the beginning of the health care debate. There are different approaches to covering the uninsured, covering those with preexisting conditions. The approach favored by Republicans, at least many Republicans, including me, would create real economic incentives to bring the uninsured into covered access to health care while taking critical steps to reduce the costs of health care. One of the reasons people aren't covered is cost. The best way to lower the number of the uninsured is to make it easier and less expensive for people to get insurance in the first place.

The President chose to take a very different approach. He chose not to focus on the costs, which have gone up; not to focus on providing incentives for people to get coverage, but instead a top-down, centralized approach. He turned to mandates. ObamaCare requires that all Americans purchase insurance. It mandates what type of insurance that coverage includes, and it requires that private insurers accept all comers, including those with preexisting conditions.

Again, we all want to ensure that those with chronic conditions receive health care, but it also changes the way health insurance underwriting works. Normally, insurance works by pooling resources for some future harm. So for those who have preexisting conditions, obviously the harm is already present and their premiums are not going to be able to pay for their care, for the most part. That is why these high-risk pools in States are something I support and others support, providing tax incentives for that. But the offset is these often have astronomical costs. That is how ObamaCare was designed.

So this notion of these costs are going up and we didn't intend that—of course they intended it. It is exactly the way they intended it. ObamaCare needs more money than these policies would provide, so these private plans we talked about earlier—people in the individual market—many of which are high deductibles, low cost, catastrophic plans, many of the people who have these plans are young people who are relatively healthy. These folks were forced to buy insurance they didn't need because ObamaCare needed the money. The plans they had met the needs of those people—met the customers' needs—but, frankly, didn't meet the government's needs. So those plans were regulated out of existence, padded with extra benefits and consumer protections that many of those who chose this policy didn't want, as Mark from Urbana said, and will never use. Sometimes these policies are double or triple, and we have heard cases where they are five, 10 times more.

What we have seen in the individual market is only the beginning. Next year, the same mandates and government outreach that have hit the individual market will come to effect for the employer-based market as well, where the vast majority of us get our health care, through our employer. So at some point 80 million Americans will likely see their health plans canceled or sold and replaced by—when the employer-based market comes under the ObamaCare mandates, which, as we recall, is going to happen about a year from now, because it was put off for a year—that was the delay the President put in effect—we are going to see much more of this.

Again, there is a better way. There is a way to put this partisanship behind us and do this together. We talked earlier about the fact when you cram something through with all votes on one side of the aisle and ignore the other, we tend to get a policy that doesn't work for the American people.

That is exactly what we are seeing here. There is a better way, and we still need to pursue it. Instead of having less choices and higher costs for all Americans, there is a way to put together a plan that actually helps people.

This is something that Republicans and Democrats alike need to focus on. Instead of a top-down, centralized, government-knows-best solution, we need to go to solutions that actually reduce the costs of health care and provide more choice in health care. It can be done.

ObamaCare should be repealed and replaced, in my view, but it should be replaced. The status quo is not acceptable. I think the failures of ObamaCare point the way as to what we should do—reduce the costs. There are steps we could take today; for instance, remove the shackles of government regulations from the market. Let health care insurance and health care be less expensive. Let health care insurance be

sold across State lines. That is something you can do with Federal legislation that will provide more competition. It will lower the cost. There are some areas in my State where there are only a couple plans. I am told under ObamaCare, in some States there are only a couple plans. You want to have more competition, not less.

We should give people the ability to get health care on their own. We talked about health savings accounts. We should help create a healthy, vibrant individual health care market by giving people a tax incentive to purchase health insurance comparable to incentives they would receive with employer-provided coverage where there now are tax incentives to provide health care coverage. Let's deal with these frivolous lawsuits. That reduces the costs.

So I appreciate the fact that one of my colleagues has joined me on the floor and is going to continue this discussion. But I wish to go back to where we started. It does not have to be this way. What we are doing in the Senate by taking away the rights of the minority is not going to help us with regard to getting better judges. It did not help us in terms of cramming ObamaCare through with 51 votes rather than the normal 60 that should have been required. It does not help for us to now continue down this track of a government, one-size-fits-all approach to health care. We have heard the stories. We see what is happening and have not even hit most Americans yet because they get coverage from their employer.

Instead, let's work together. Let's provide more choice. Let's reduce the costs. Let's ensure that everybody has access to health care that works for them and their families. If we do that, the American people might regain a little bit of trust in this institution and in this town.

Madam President, I would like to yield the floor, if I could, for my colleague and your colleague from North Dakota.

The PRESIDING OFFICER (Ms. HEITKAMP). The Senator from North Dakota.

Mr. HOEVEN. Madam President, I thank the esteemed Senator from Ohio for his remarks and express my support for his remarks as well.

Myself and other colleagues have been on the floor today talking about the need to work in a bipartisan way. Obviously, the business before the Senate right now is nominations, and we want to emphasize again the importance of advice and consent in the nomination process but that it needs to be on a bipartisan basis.

The change that, of course, has been made is that now the majority party can vote through, confirm a nomination without any input, any consent, any debate from the minority party. That is an issue not only in terms of the nomination process, the confirmation process of advice and consent, but that is also very much an issue in legislation.

The importance of bipartisanship, whether it is in advise and consent in the confirmation process or whether it is in passing legislation, is seen because we have a country of more than 300 million people—Republicans, Democrats, Independents—but at the end of the day, if we are going to have broad-based public support for the work we do, for the legislation we pass, it has to be done in a bipartisan way.

My colleagues have been pointing that out in terms of the confirmation process. Also, they have been pointing that out in the context of the Affordable Care Act and ObamaCare. That is legislation that was passed on a partisan basis. One party, and one party only, voted for that legislation. What we have seen is that does not work.

To get broad-based support for any legislation—let alone something as important as reform of health care—both parties have to be part of that work product. That is the only way we are going to get broad-based support across this great Nation on the important issues we face.

Earlier today I read story after story from people from our great State expressing real challenges, real difficulties—the higher costs, higher deductibles, higher premiums, higher copays—they are facing as a result of the Affordable Care Act. I talked about the need to engage in the right kind of health care reform, the kind of health care reform that truly empowers individuals to pick their own health care insurance and their own health care provider; the need to pass the kind of legislation that will help us provide expanded health savings accounts tied with higher deductible policies that will encourage our young people to purchase health care insurance because they will be able to do so with lower premiums; the need for tort reform to help bring down health care costs; the need to increase competition across State lines so people have more choice, and with that competition, lower prices when it comes to choosing their health care insurance; and I talked about the need to reform Medicare, as the Presiding Officer knows, to provide the right incentives.

Look at our great State of North Dakota. We have lower health care costs than most other States, and we have very good outcomes. For that we get not more Medicare reimbursement but less. That is exactly the wrong incentive—providing more reimbursement to States that have high costs regardless of outcome and lower reimbursement for States even with lower costs and better outcomes; in essence, getting less reimbursement, getting penalized for good performance. That is exactly the wrong approach and why we so desperately need to make reforms that create the right approach.

These are the kinds of solutions we are advocating that we will continue to advocate to put in place for the American people. We need Members on both sides of the aisle to come together with

a step-by-step, comprehensive approach, market-based approach, that will truly create more choice, more competition, and empower people—the great citizens of this country to take control of their health care decisions and make the decisions that best suit them and their families.

I see that my colleague from the great State of South Dakota is in the Chamber. As always, I am very pleased to see him, and at this time I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Thank you, Madam President. I thank my colleague from North Dakota—both colleagues from North Dakota who are here in the Chamber—and I appreciate his leadership as a former Governor, understanding these issues such as health care, which do profoundly impact the people whom we all represent in the Dakotas. There are some unique challenges, obviously, of meeting the health care needs of people in our States because we have a big geography, lots of wide open space. We do not have the big population centers that are in other places in the country, and so health care delivery and coverage of health care, health care insurance and access to it are enormously important to the people we all represent.

I would say it has become abundantly clear that the American people are rejecting ObamaCare, which is the law that was passed several years ago in the Senate, in the house, signed into law by the President. I remember being here at the time and voting on that on Christmas Eve. We were actually here. It was December 24, 4 years ago, I think now, in 2009. We were right up here until the end, and this was, I would say, jammed through the Senate.

The majority had the votes. They were not all that concerned about having participation or input from those of us who served in the other party—as a consequence of that just shoved this thing through right on Christmas Eve. I think that was an unfortunate way in which to conduct the business of the Senate, to enact major legislation. It is very rare around here that legislation of that consequence that literally impacts one-sixth of the American economy is shoved through on a partisan party-line basis.

So that is the way it was done. We said at the time—many of us were down here on the floor over and over predicting that because of the way this was structured it was going to lead to higher insurance premiums, it was going to lead to fewer jobs in our economy, a lot of stress on employers that were trying to create those jobs. All of that is coming to fruition as we hear now reports day after day after day across this country—from my State of South Dakota, other States across the country—from people who are feeling the very real and harmful impacts of

the ObamaCare legislation, both in terms of higher premiums but also canceled coverages, higher deductibles, things that affect the pocketbooks of millions of Americans and issues that are discussed and debated at kitchen tables, but they are profoundly important to the economic well-being of people in this country.

When you are seeing the dramatic increases in premiums, the dramatic increases in deductibles, the loss of coverage, the canceled coverages we are seeing across the country right now, it is very disturbing to people. That is why I think you have seen this widespread rejection of ObamaCare.

Interestingly enough, yesterday Health and Human Services released new enrollment numbers for the exchanges for October and November. Over the course of those 2 months, in my State of South Dakota, just 372 South Dakotans—or less than one-half of one-tenth of 1 percent of my State's residents—signed up for health care on the exchanges.

Ten other States also had fewer than 1,000 people sign up.

Oregon, which embraced ObamaCare very early on, had just 44 enrollments. Think about that—44 enrollments to show for 2 months thanks to their Web site, which suffered an even more catastrophic failure than the Federal Web site.

In all, there were 364,682 enrolled in the exchanges during the months of October and November—not even one-quarter of the number the administration had projected after 2 months. To meet its goal of 3.3 million signups by December 31, the administration would have to sign up almost 3 million people in the next 3 weeks or more than 145,000 every single day.

Considering that the administration has averaged fewer than 6,000 enrollments a day over the past 2 months, I would not want to put a lot of money on them being able to meet that goal. It is obvious from the sluggish enrollment numbers that the American people are rejecting ObamaCare. But if anyone needs more proof, three new polls came out last week, all reporting strong opposition to the law among the American people.

The Pew Research Center poll reports that 54 percent of the American people disapprove of the President's health care law.

According to Pew's most recent survey, the percentage of Americans who think the health care law has “had a negative effect on the country” rose 11 percent just since September of this year.

In the Wall Street Journal/NBC News poll released yesterday, the President's disapproval rating reached an alltime high of 54 percent. When asked what issue shaped their view of the President this year, 60 percent cited ObamaCare.

The same Wall Street Journal poll also found the number of Americans who think the President's health care

law was “a bad idea” reached an all-time high.

Quinnipiac University also released a poll yesterday that found that 57 percent of the American people oppose ObamaCare.

The President's health care law has never enjoyed strong popular support. But Democrats and the President argued that public support for the law should not be judged until the law's benefits were in effect.

The law is now in effect. People can buy insurance on the exchanges. Yet opposition to the law is not declining; it is the opposite that is happening. It is actually rising. Opposition to the law is increasing over time as more and more people become aware of the impact on their personal economic well-being.

Quinnipiac reported a 10-point jump in opposition to the law between October 1 of this year and December 11.

Meanwhile, support for the law, already low, dropped a further six points over the same time period.

Even worse for the President, it is not just Republicans and Independents who are fleeing the President's signature law. Many of the President's strongest supporters, those who initially supported his health care law and helped reelect him last year, are deserting the President.

The Pew Research Center found a 10-point drop in support among African Americans since September and a 9-point drop in support among Hispanic Americans—both groups who strongly supported the President in the last election.

The Wall Street Journal/NBC News poll also found “faith in Mr. Obama has dropped noticeably in recent months among young voters and Hispanics, two groups that had been among his steadiest supporters.”

So the question, I guess, is why are the American people and even the President's strongest supporters rejecting ObamaCare? Why, now that the law is mostly in effect, is opposition growing rather than declining?

Well, I think the answer is very simple. It is because the law has failed to deliver on the President's promises. From rising premiums, to canceled health plans, to lost doctors, ObamaCare is doing the exact opposite of what the President promised it would do. The President said his new law would reduce the cost of health care. In fact, he claimed families would see their premiums fall by an average of \$2,500 a year. But that promise fell apart almost immediately after ObamaCare was enacted. In fact, what we are seeing out there is that the average family has seen its health care premiums rise by more than \$2,500 since the law's passage. Now that the law is being implemented, those numbers are only going higher. Those families who are lucky enough to keep their plans have been receiving insurance renewal notices with staggering premium increases. Premiums are doubling or

even tripling for many families, and deductibles are increasing as well. Imagine getting a \$600-a-month increase in premiums. That is \$7,200 a year. How on Earth is a working family, a middle-class family in this country supposed to be able to afford that?

The President would like you to believe that these Americans' updated, more expensive health plans are far superior to what they had before. But, in fact, many of these plans were as good or better than what these families are getting now. Many of these plans are falling short of people's expectations because they have higher deductibles. Of course, with all of the mandated coverages that are in many of these plans, there are all kinds of things that people who are subscribing, trying to get on the exchanges, are finding they do not need. I have had people in my State of South Dakota who are in their fifties and sixties who are asking why they need to have things such as maternity coverage.

You see that as these letters and emails and phone calls are coming into your office and people are finding out about the specifics—the details, if you will—of these various plans, they are rejecting them not only because they have higher premiums, but they are also plans that are not sufficient or adequate compared to what they are currently experiencing with the plans they had before. Now thousands of families around the country are going to be struggling to pay huge premium increases without receiving any additional benefit.

The situation is no better on the exchanges. While there are certainly plans with low premiums on the exchanges, many of those plans have deductibles that are so high that, barring some catastrophic illness or injury, the family might as well not have insurance at all. A family without insurance who typically pays \$8,000 a year in health care costs may see no benefit at all from an insurance plan with a \$12,000 deductible. In fact, they may spend more on health care because now they have to pay high insurance premiums as well. So you have higher insurance premiums, higher deductibles, meaning in many cases that they are not going to reach the threshold that would trigger a payment from their plan, and so they are getting no additional benefit, but they are paying way more for the same or worse coverage.

In addition to promising a new era of affordable health care, the President also promised that nothing would change for people who liked the health care they had. He repeated many times—we have all seen the videos of this—that if you like your health care plan, you can keep it. He even went so far as to say “You can keep it, period” to make it even more emphatic. “If you like your doctors, you can keep your doctor, period.” But Americans are now finding out that was not even close to being true. Millions of Ameri-

cans have seen the health care plans that they liked canceled by insurance companies in response to new ObamaCare regulations. So far, more than 5 million Americans have lost their health care plans as a direct result of ObamaCare. In fact, today, millions more Americans have lost health care than have gained it under the President's signature law.

Millions of Americans are also realizing that they cannot keep their doctors or their hospitals. ObamaCare put in place scores of new regulations on insurance companies and the plans they offer. To meet all of the ObamaCare requirements while still getting their plans approved, insurance companies have been forced to drastically shrink their networks of doctors and hospitals. As a consequence, many families are finding that their new health care plans force them to give up doctors they have been seeing literally for years.

That may not sound so terrible to some of us if we do not have a close relationship with our doctors, but what if you are a cancer patient who relies on your network of doctors and oncologists to coordinate your life-saving care?

More than one cancer patient has spoken openly in the press about the struggle to find a replacement health care plan after having their original plan canceled as a result of ObamaCare, a plan that covers all of the doctors and the medicines they are currently using.

Joan Carrico, a nurse from Michigan and a cancer patient, published a heartbreaking column on CNBC yesterday updating readers on her struggles to find a health care plan that covers all of her care. I will let her words speak for her and the other Americans in her position:

I can't begin to describe how devastated I am. Many people like me, who are in a difficult health crisis and fighting to regain good health, are finding it very difficult—if not impossible—to make sure that we can keep our doctors and receive the chemotherapy and other treatments and medicines that are keeping us alive. . . . I'm scared and wondering what surprises are around the corner.

Well, Ms. Carrico brings up another thing people may lose under ObamaCare besides their doctors and their health care plans; that is, their medications.

Forbes published an article this week outlining the reasons ObamaCare may cause millions of Americans to lose access to the medications they are currently taking. The author points out that many exchange plans have steep cost-sharing requirements for prescription drugs. Purchasing a bronze plan, for example, the article points out, means you will likely be responsible for 40 percent of a drug's cost. That may not be so bad if we are talking about a common antibiotic, but that gets very expensive when we are talking about more sophisticated drugs, such as cancer drugs and other life-saving treatments.

The second reason patients may lose access to their medications, according to Forbes, is that some plans simply may not cover the prescription drugs that person has been taking. Out-of-pocket limits, the article notes, do not apply if the drug you are taking is not on your new insurance company's “approved” list of drugs. You may find yourself paying for a very expensive drug without any benefit at all from your new insurance plan.

In addition to higher costs and the loss of their doctor and health care plans, there is another reason Americans are rejecting ObamaCare. ObamaCare is not just bad for health care, it is bad for the economy. New health care regulations are discouraging businesses from hiring and expanding their businesses.

Earlier this week a CBS News article reported that “nearly half of U.S. companies said they are reluctant to hire full-time employees because of the law.” The Hill reported on a recent survey by the National Association of Manufacturers that found that 77 percent of manufacturers cite soaring health care costs as the biggest issue facing their business. The title of the Washington Post article on the health care law's impact on small businesses says it all: “Health care law's aggregation rules pose a compliance nightmare for small businesses.” That is the headline of the Washington Post.

Small businesses are responsible for a majority of the job creation in this country. If we look at some States around the country, my State of South Dakota being a good example, most of the jobs, a huge proportion of the jobs created in States like mine are created by small businesses, but the health care law is discouraging them from hiring, drowning them in regulations, and promising stiff new requirements if they have 50 or more employees. I can't tell you how many times, when I am traveling in my State of South Dakota—or, for that matter, traveling outside my State but specifically in my State of South Dakota—when I am talking to businesses, to people who are creating jobs, investors, the uncertainty associated with this health care law and the new costs because of its mandates and its requirements are making it more difficult and more expensive for them to create jobs.

So what are we seeing as a result of that? We are seeing a slower, much more sluggish economy; chronic high unemployment; and fewer jobs, particularly for people who are coming out of college. Younger Americans in particular are paying a dear price because of the slow economy. When businesses do not hire, the economy suffers. Every American who has spent weeks, months, or years struggling to find a job suffers too.

I know my Democratic colleagues here in the Senate know all of this. That is why some of them are starting to run away from ObamaCare too. Democrats in Congress may have supported the law, but now that they have

seen how it looks in reality, some of them—particularly those running for reelection—are eager to distance themselves from it. No one running for reelection wants to be too closely associated with the law that is raising Americans' health care costs, taking away their health care choices, and hurting an already struggling economy.

The American people have spoken. They do not like ObamaCare. They do not want ObamaCare. They cannot afford ObamaCare. It is time for Democrats in Congress to start listening. I always think it is never too late to do the right thing. I hope that as more Americans start to weigh in and start to engage in the discussion about how this is impacting them personally, that will have such a profound impact on Members of Congress here in Washington, DC, that they will come to the conclusion that many of us reached a long time ago; that is, this is a bad, flawed bill, built upon a faulty foundation that is destined to fail, and that the best thing we can do is pull it out by the roots and start over in a way that makes sense for the American people, that addresses the challenges we have in our health care system in America today but does it in a way that does not require the government to take over literally one-sixth of the American economy and create political control—command and control from here in Washington, DC, over literally one-sixth of the American economy.

One out of every six dollars in our economy today is spent on health care. Think about that. There are very few areas where you can say that complete, total government intervention impacts that big of a swath of our economy. Unfortunately, government intervention is impacting way too much of our economy. As a consequence, we are paying a price in the form of fewer jobs, chronic high unemployment, and a slower, sluggish, anemic economy, which is making it more difficult for people to find jobs and more difficult for us to get ourselves out of what is a very difficult economy.

My hope would be that before this is all said and done—and I do not know when this will happen; hopefully sooner rather than later because I think the sooner we make that adjustment and decide this was the wrong course and reverse course and go in a different direction, the less damage we will do to people's livelihoods, to their personal economic circumstances, and the less damage we will do to the overall economy in this country. I hope that realization comes sooner rather than later. But I think what will drive it—I have maintained all along that ultimately the only thing that can really change this is the American people because clearly we have a President of the United States for whom this is his signature achievement. Unless he starts hearing from the American people, he is unlikely to change.

We have a lot of people here in the Senate—every Democrat here today

who was here in 2009 voted for this. Not a single Republican who was here in 2009 voted for it. That is probably one of the reasons this is such a failed policy. It did not have input or buy-in from the other side. It did not get some of the best ideas coming to the forefront.

There was a much better way to do this. Many of us who have been around here for very long have been proposing solutions to address health care challenges that have been rejected by Democrats here in Congress.

We have talked a lot over the years about allowing people to buy insurance across State lines. Why wouldn't we create interstate competition? Competition in a free market economy generally, as a matter of principle and as a matter of practice, drives down price. If we create more competition and give people more choices, that tends to drive down prices. That is a fairly basic economic principle.

Why wouldn't we allow small businesses to join larger groups where they can get the benefit of group purchasing power and thereby put downward pressure on the cost of health care in this country?

Why wouldn't we allow for expanded opportunities for people to take care of their own health care circumstances by allowing for expanded, larger health savings accounts, opportunities for people to put money aside in an account, perhaps buy a catastrophic policy with a high deductible but tax free. They can put money aside that allows them to cover some of those health care costs that don't reach that catastrophic level.

What about finally doing something to reduce the cost of defensive medicine, which means we would have to reform our medical malpractice laws in this country and weed out a lot of the junk lawsuits that clog our legal system and make it so much more expensive to deliver health care. I talk to physicians all the time for whom concern about liability is a major issue. It creates overutilization. You take all this great technology we have in America today, and you have physicians who are worried about being sued. Of course, they are probably going to run duplicative tests. Anybody who is involved in the delivery of health care in this country knows very well about the cost of practicing defensive medicine. There have been many studies done on it, all of which conclude that it adds significantly to the cost of delivering health care in this country. There are differences of opinion about how much that is, but there is no question that it is a factor in the high cost of health care.

There have been proposals. There are a number of my colleagues on this side of the aisle who have suggested allowing people to have their own personal, refundable tax credit for the purchase of health insurance and to create equity between the tax treatment of health care that people can get

through their employer with that which they would be able to get in the individual marketplace.

Again, the principle is greater choice, greater competition, and therefore lower prices. It is a fairly straightforward and simple formula when it comes to a market-based approach to how we deal with the health care crisis we have in this country.

Clearly, we have programs such as Medicare and Medicaid where the government is fairly heavily involved in the delivery of health care in this country. That too is an area where we need to be looking at how we can reform and make those programs work more efficiently, more effectively, in a way that hopefully maximizes the return the taxpayers get on those particular programs.

If we look at programs such as Medicare, there was a good example a few years ago, which was Medicare Part D, which is the only program I can think of since I have been here—or, for that matter, since I have been following policies that have been put in place over time—that has actually cost less than what it was projected to cost. Why? Because it allowed for competition. It created a private component where private insurance companies would vie for, would bid for the business of senior citizens across this country when it comes to their medications. As a consequence of that, we have seen those costs come down to a reasonable level. It actually has cost less than what was anticipated.

That is a principle we could start to apply in other areas. There are a number of things that could be done to reduce the cost of delivery of health care when it comes to the component of it that the government is heavily involved with.

But the point, very simply, is that whenever we create more choices, when we create more competition, it has a downward impact on costs. It drives costs down. So why weren't a lot of these things considered or incorporated into ObamaCare when it was passed? Well, we all know the answer to that. It is because the majority party, which had the votes, decided to do it their way. They decided to go their own way, and as a consequence we ended up with a bill, a piece of legislation, and now a huge new program that has been an utter disaster.

I think any objective observer would come to that conclusion based upon the rollout of the Web site and everything subsequent to that that impacts costs; that impacts people's ability to keep the plan they have and the doctor they have; that impacts to the economy, which is overburdened with the cost of regulation in the new law; as well as the many—and I say "many"—taxes that were included in the new law. There were many new taxes included, not to mention lots of cuts to Medicare, which, interestingly enough, were double-counted. That was allowed to be used as "savings" put in the Medicare



trust fund, therefore extending the life-span of Medicare. At the same time, that was going to be spent on the new health care proposal.

Only in Washington, DC, could someone get away with an accounting convention that would allow someone to double-count revenue, which is essentially what happened. We raised that question many times, and eventually we had a letter from the Congressional Budget Office that said: Yes, this is double-counting revenue. You are spending the same money twice.

Yet the majority party had the votes. Around here, it is a function of math: If you have the votes, you can do pretty much whatever you want. And that is what they did. We are paying a dear price for that, but the people who are really paying the biggest price are the American people, who are seeing these increased premium costs, increased deductibles, fewer jobs, slower economy, and lower take-home pay. That is the bottom line.

It boils down to basic economic terms. What we are talking about is a slower, more sluggish, anemic economy, chronic high unemployment, and lower take-home pay for middle-class America. In fact, if we look at average household income, which is something we use as a metric to measure people's overall economic situations, the average household income in this country, since 2009 when the President took office, has decreased by about \$3,700 per family. There are a lot of things, obviously, that contribute to that, but I don't think it is any surprise that when you drive up the costs of something that everybody needs in this country—and by that, I mean health care—in the form of higher premiums and higher deductibles, it is inevitable that you are going to see a lot of people's household incomes impacted by that. Then you couple and layer on top of that the impact it has on the economy. When you have a sluggish economy creating fewer jobs, that, too, has a very devastating impact on people's personal economic circumstances and livelihood. So average household income, since the President took office, has gone down by about \$3,700—lower take-home pay. That is another of the results and the outcomes and the ultimate impacts, if you will, of policies created in Washington, DC, that make it more expensive and more difficult to create jobs in this country.

As I said earlier, I think ultimately what will get us to where we really can change this, change course, change direction, take this thing which is headed for the cliff and turn it around and move it in the other direction, is going to be the American people. If every Senator, every Member of Congress, if the White House is hearing what I am hearing from people in South Dakota, perhaps there is some hope that we can persuade enough people in Congress that we have to change the direction we are heading.

I would like to share a few things that I heard from people in my State of South Dakota.

A male constituent from Sioux Falls, SD, wrote and said:

I just received notice that our health insurance will go up almost 60 percent due to the ACA, from \$718 per month to \$1146 per month. We will also lose our prescription drug benefit and office co-pay benefit until each of us reaches a \$5,000 deductible. We have maternity benefits now and pediatric dental and vision care, although I am 64 and my wife is 59. This will cost us an additional \$5,000 per year.

For somebody who is trying to make ends meet in this country, trying to get the mortgage paid, trying to put a little aside for their kids' education, \$5,000 is real money. That is a tangible impact of this law on the economic circumstances, the standard of living, the quality of life this particular couple is experiencing in America today.

ObamaCare is sticking hard-working Americans with higher costs for unnecessary coverage. Families were denied the ability to keep their plans—the plans that best fit their needs, lifestyles, and budgets.

The following is a letter we received from a female constituent from Wilmot, SD:

My husband and I have four small children and purchase our own health care. My husband runs his own small business and I am privileged to stay at home. We are very healthy, so we have always purchased a plan with a large deductible, so we can afford a reasonable premium.

Today we received our letter from our health insurance provider letting us know that next month our premium will be jumping 232 percent! That's over \$500 more a month—and we barely use our health insurance.

We currently live in an 1,800 square foot house and have been trying to find something bigger. This jump in our monthly health care premium could prevent us from being able to afford any kind of monthly house payment.

ObamaCare is cutting into the carefully planned budgets of American families, holding them back from the futures for which they have carefully budgeted. This is an example of a family who is trying to get by—four small kids—and they buy their own health care in the individual marketplace. The husband is self-employed, runs his own business, and the mom has been able to stay home and care for those four kids. They work very hard staying healthy and very rarely use their health insurance policy. They are going to see a 232-percent increase, over \$500 more a month. They live in a 1,800-square-foot house. They had hoped to be able to find something a little bit bigger, and they aren't going to be able to because of the consequences of ObamaCare.

A female constituent from Spencer, SD, writes:

Thanks to ObamaCare, my monthly premium will increase over 100 percent, which equals 45 percent of my monthly income. My daughter lost her insurance, as well. The ACA is not affordable, and if I could tell the President so, I would. My private insurance did change.

The Obama administration has broken its promise that Americans who wanted to keep their plans could. We are also learning that this law simply isn't affordable for many middle-class families, such as this lady from Spencer, SD, whom the Obama administration said it would protect when they said: "If you like your insurance plan, you can keep it, period." A lot of Americans took that to the bank. Clearly, they should have known better. The double talk coming out of Washington, DC, is not only frustrating a lot of Americans, it is creating cynicism and a lack of trust and confidence, which is going to make it difficult to do big things in the future.

A male constituent from Rapid City, SD, wrote:

I know you did not vote for this—

Thank you—

but I wanted to tell you. My health care premium went from \$640 a month to \$1080 a month. My deductible went from \$3600 to \$5000. I feel like the federal government has stolen over \$5000 a year from me.

Americans feel betrayed by this law, likening the increased rates to theft by their own government. That is the level of frustration people across this country are feeling. They are frustrated, they are discouraged, they are despondent, and they want something to give. They want something to change. They know we can't continue down this path and expect that any of these families are going to be able to provide a better standard of living and a better quality of life for their children and grandchildren. The family has over a \$400 increase in their monthly premium and a \$1,400 increase in their deductible. That is the effect on this constituent in Rapid City, SD.

A constituent family from Watertown, SD, writes:

You need to know how ObamaCare is harming my life and health care. We were one of the families that lost their health care plan. We heard President Obama say, "if you like your health care, you can keep it." That was a lie. Our new health care plan is going to cost our family \$21,600 a year compared to the health care plan of 2013 which cost us \$7,335.96. That is a 300-plus percent increase. We are a healthy family of six people. We are outraged and upset.

Madam President, these letters and calls to my office echo similar complaints from American families back home in my State of South Dakota and all across the country. ObamaCare is costing this family more money and denying them the plan they want. That is the real life, real world impact.

If you think about it, this is really pretty staggering. This new health care plan is going to cost this family over \$21,000 a year compared to \$7,335 today. A 300-plus percent increase for a healthy family of six. You can't blame them when they say they are upset and outraged. Who wouldn't be. Who wouldn't be.

This is from a small business owner from Brookings, SD, who writes:

In the mail today was a letter from my health care insurance provider . . . and, well,

guess what? Thanks to the great ObamaCare plan, my monthly premium almost doubled, and my deductible doubled. I'm a small business owner, and I would like to hire an employee next spring. . . . Well, that's not going to happen. When will those we elect to Washington ever do something to help people and small businesses?

Madam President, ObamaCare is not only slamming individuals, it is hitting the small businesses, the job creators that Washington needs to be protecting. ObamaCare is stopping employers from expanding their workforce.

In a bigger place, in a big city, this may not have the same domino effect or the ripple effect that it does in a small State such as South Dakota where you have a small business owner, such as this gentleman from Brookings, SD, who wants to expand his business, wants to hire another employee but is saying that is not going to happen, and the reason it is not going to happen is because of this huge increase in their monthly premiums—almost doubling the monthly premium, and doubling the deductible.

I don't know how an employer in this country today, who is trying to grow a business, expand the business and provide for themselves and their families, perhaps put a little aside to use for the kids' college education or perhaps put a little aside for retirement, deals with the doubling of probably one of their biggest costs of doing business, and that is the cost of health care. You double your premiums; you double your deductible.

This is from a mother in Garretson, SD, who writes:

Next year, our insurance is changing, and I will lose my family practice doctor of 22 years—the doctor that delivered all my children and that has cared for our teenage children all their lives. We will also lose all the backup doctors our family has seen when we couldn't see our regular doctor. I was happy with my insurance, and now I have to lose my doctor.

This is more testimony from people losing their plans and doctors, which the Obama administration—President Obama himself—repeatedly, over and over, told the American people they could keep. Families are losing their trusted doctors.

Whether it is a doctor, a hospital, or prescription drug coverage, these are all real life examples, real world examples of the impacts of ObamaCare that point to just one thing, and that is this law, No. 1, doesn't work, and No. 2, it can't be fixed. There is no way we will be able to address what most people care about when it comes to their health care—and that is the cost—when we require the people who provide that health care coverage to deal with more mandates, more requirements, higher taxes, all of which are going to get passed on and paid for by the very people in this country who are just trying to make ends meet and make a living and provide for their families.

Those are seven examples from my State of South Dakota. I could go on,

because there are many more examples. There are examples from people all across the country. But I think the point that needs to be made here—and can't be made often enough—is that these are real world economic impacts that are affecting every day Americans in a way that is making it more difficult for them, making their economic circumstances more complicated and more difficult.

What, if anything, should we here in Washington take away from this? First off, as I said earlier, this doesn't work. Let's start over. Let's do this the right way. It is not too late to do that. It is never too late to do the right thing. We could, if we decided to pull this thing out by the roots and start over, come up with a whole series of reforms that would move us in a step-by-step direction toward the ultimate goal, and that is to address the health care challenge we face in America today; that is, the cost.

I don't think there is any American family, any individual, as they think about having to purchase health care—and particularly if you are a young healthy person, obviously, you don't want to pay a lot for it because you are probably not going to use a lot. Yet those are the people who will get hit the hardest. I can't tell you, if you are in your 20s, how much more you are going to have to pay to get health care coverage in this country, simply because the law requires what they call the community rating band be narrow so that people who are healthier and younger are going to pay much more to cover people who are less healthy. That is a reality in the legislation and it is a reality now in terms of the way it is being applied and being implemented.

So we are looking at a lot of people in this country—for sure younger Americans, but Americans of all ages as well—who are looking at higher cost because of these regulations and mandates and requirements that are being imposed upon the insurance companies and health care providers in this country. The new taxes, which I mentioned a little bit earlier, are also something that ultimately get passed on.

When we were debating this, the Democrats argued that we would have  $\frac{1}{2}$  trillion in tax increases and  $\frac{1}{2}$  trillion in Medicare cuts and that was how this was to be financed. It turns out when it is fully implemented the cost is much higher. What they did is they front-end loaded some of the revenues and back-end loaded the costs. When the Congressional Budget Office looked at it, in a 10-year window, they said there will be about a \$1 trillion cost.

When it is fully implemented, and we see the full impact of the cost and the revenues together, the 10-year cost is more like  $\$2\frac{1}{2}$  trillion. So it was a massive expansion of the Federal Government—literally the largest expansion of the government in 50 years. It was literally a takeover of one-sixth of the American economy. That is what health care represents in this country.

So if we think about that in those terms, how much this thing is going to cost—and at the time they said: Don't worry, it is all paid for. It will not add to the deficit—we are finding out now more and more information, with more and more analysis being done, and it is coming to light that, in fact, it is going to cost way more than what was initially expected. I think this is the tip of the iceberg, the tip of the iceberg in terms of the cost to the American taxpayers. Again, this is financed by higher taxes, all of which get passed on to the very people in this country this is supposed to help.

The Medicare cuts that were proposed to help pay for this, many of us said at the time were cutting hospitals, cutting home health agencies, cutting nursing homes, cutting hospices—which is what this did. This was all designed to take  $\frac{1}{2}$  trillion. But again, when it is fully implemented, it isn't  $\frac{1}{2}$  trillion, it is \$1 trillion, when you look at the full 10-year implementation. But taking this out of Medicare was, No. 1, going to help pay for all the new benefits that would happen under ObamaCare; and No. 2, somehow—somehow, don't ask me how—it was going to be credited to the Medicare trust fund, thereby extending the life of Medicare.

How do you do that? How do you, with a straight face, say we are going to take—let's just use the conservative number used by the Democrats on the floor— $\frac{1}{2}$  trillion out of Medicare, use it to finance a new entitlement benefit and somehow be able to say we are going to credit the Medicare trust fund and that this is actually going to prolong the lifespan of Medicare? It was absolutely stunning at the time that we were having this debate and we raised these issues. But people would say: The CBO says this, the CBO says this. That is because CBO uses some pretty strange accounting conventions that aren't used anywhere else in the world. Anyplace else in the world you would be in jail for doing something like that, for double counting revenue—spending the same money twice. But that is essentially what happened.

Many of us at the time, as I said, raised this issue on the floor and tried to point out we are spending the same money twice. At that time it fell on deaf ears. To me, that is again a symptom of a process that is geared to get a result with a majority vote driven through here, jammed through here, forced through here on Christmas Eve. We all had that vote Christmas Eve morning, and all I can say, as someone who was here and observed that entire process, we tried our best to warn the American people about what was going to happen.

It is too bad we didn't at the time decide, as we usually do when we do major legislation—major legislation that has enormous consequence for the American people—to do it in a bipartisan way that incorporates the best

ideas of both sides of the aisle and perhaps gets a big bipartisan vote. Usually, when you pass major legislation around here, you are sort of hoping for 70 to 75 votes, perhaps even more, because you have the buy-in, everybody has been involved in helping shape and formulate that legislation. But that wasn't the case when this passed.

Again, I understand. This becomes a function of math. You have the votes or you don't. That is the way this place operates. At that particular time, 60 votes was something the majority had the luxury of and didn't seem to care a whole lot about what Republicans had to say. The President was bent on getting his initiative through and getting it his way. Today, that is the reason, in my view at least, we are where we are, with a piece of legislation the impacts of which are now being fully felt by the American people, and their conclusion is what I think their conclusion should be: This is a really raw deal.

I can't tell you, as I think about the broader context, beyond just the world and the space of health care when it comes to public policy, how these decisions that are made here, major policy decisions, impact the broader economy. There is no question, there is no debate about the impact this is having on the economy.

If you talk to any small business person in this country, anybody who has the responsibility of providing health insurance for their employees, who has the responsibility for hiring and employing people and, hopefully, paying them a living wage and benefits that go with it, there is no question this is having a detrimental impact on the overall economy, which continues to sputter along at a 1 to 2 percent growth rate. The best thing we could do, if we want to really help the American people and really improve the standard of living and the quality of life for people in this country, is to first get people unemployed back to work; but, secondly, get the economy expanding at a faster rate.

We are growing at 1 to 2 percent a year instead of 3 to 4 percent, and that has a profound impact in not only the number of jobs created but also the wealth that is created. When we think about an economy that is growing at 3 to 4 percent versus an economy that is growing at 1 to 2 percent, the difference in the gross domestic product, the difference in the total economic output is substantial. In fact, it is dramatic.

What does that mean? It means a lot, not the least of which is that government revenues are a lot lower than they otherwise would be. If you had a more robust economy, growing at a faster rate, people are working, people are investing, they are making money and they are paying taxes.

We have this debate around here like it occurs in some sort of vacuum or static environment. Republicans come in here, those of us who believe in limited government, and we talk about

doing what we can to make government more efficient and make it cost less.

Democrats believe that we ought to have more revenue, more taxes; and the problem isn't that we spend too much, it is that we tax too little. That is a fundamental philosophical debate that we have here on a regular basis. One of the reasons, by the way, why it is so hard to reach a significant budget agreement: There is a profound difference in the way we view the world and how we get our country on a more sustainable fiscal path.

There are those of us who believe in spending reforms, lower spending, a more limited role for the government and think that is what we ought to be doing. Democrats by and large believe that we just need a little more tax revenue. If we just raise taxes a little bit more, we could do more here in Washington for the American people. I happen to be of the view that the American people can do just fine for themselves if you allow them to keep more of what they earn.

The reality is that there is a third way, and that is to grow the economy. We can reduce spending, we can raise taxes. We ought to reduce spending. We ought to reform spending in a way that changes this fiscal trajectory which we are on today, which becomes increasingly problematic the farther we get down the road in the future.

But in addition to reducing and reforming our spending programs in this country, we also ought to be looking at growing the economy and actually making the pie bigger. Because that is a surefire way, a certain way of getting the kind of growth in the economy which would allow Federal revenues to go up rather than down.

We have seen this over time historically. If history is any sort of guide and we go back to the 1920s under Coolidge or to the 1960s under Kennedy, a Democratic President who understood the importance of reducing marginal income tax rates or Reagan in the 1980s or more recently in the last decade President George W. Bush, when you reduce taxes on income and investment, you don't get less revenue. You get more because it changes the behavior of the American people. People have an incentive then to invest, to go to work. That generates not less revenue but more and puts us in a situation where we are much better off, not only in terms of our economy and the opportunities it provides the American people but also to the fiscal track we are on as a Nation.

I see my colleague from Kentucky is here. I know he has some observations on this issue of ObamaCare, the economy generally, and other matters before us. But certainly one of the reasons we are here is because we have this rush to approve all of these nominees to these various agencies of government—many agencies which are guilty of the very overreach which has contributed to where we are with re-

gard to ObamaCare. We have too many regulatory agencies with way too much power and are circumventing the will in many cases of the Congress to accomplish an agenda that is very contrary to the very things I just talked about, which are economic growth and job creation.

But through the Chair, I yield the floor for the Senator from Kentucky. I believe Senator PAUL is here to take up the measure.

The PRESIDING OFFICER (Ms. WARREN). The Senator from Kentucky.

Mr. PAUL. Madam President, as we enter into the Christmas season, I think it is a good time to talk about stories to describe sort of pastorally where the Senate is. So I have a story today I would like to tell about how the Senate works—or doesn't work.

So it came to pass that the filibuster was dismembered, dishonored, and indefinitely detained.

With the end of the filibuster came the end of any semblance of comity and compromise on Capitol Hill. The party that never cared much for the rule of law broke the rules of the Senate to change the rules.

Senate rules for nearly 2 centuries allowed the filibuster. The filibuster was simply a requirement that 60 percent of Senators must approve nominations and legislation. This super majority requirement actually fostered more centrist solutions and compromises.

In order to change the rules, though, and kill the filibuster, it required a two-thirds majority to change the rules. However, the party which doesn't and hasn't concerned themselves with the rule of law simply broke the rules.

When the Chair said: That is against the rules, they said: We don't care if it's against the rules. The rules are whatever we say the rules are.

The best way to put this in perspective: You are watching a tennis match. The ball is clearly a foot out of bounds. The umpire says, "Out of bounds." Instead of going by the rules, you have everyone vote. So the audience at Wimbledon votes that it was in bounds when it was really out of bounds.

That is what we have here: We have no more rules and we have no more comity. We have no more compromise. What we have is poison—poison that has been given to us by people who have no concern for the rules.

Historically, it has always required two thirds of the Senate to change the rules. But, for the first time, we break the rules to change the rules. So when the parliamentary rules to Senate Democrats that: You're breaking the rules, they say: No, it really wasn't out of bounds. It was in bounds or we don't care that it was out of bounds. We don't care what the rules say. We want our way. We are impatient. We want our nominations, and we want them now. We don't care about the history of the Senate. We don't care about the history of the Congress. We want our way or we will pick up our toys and we

will go home. We want it now. We want it now. We want all of it. We don't want to talk with the other side. We don't want compromise. We don't want discussion. We don't want negotiation. We want our way or the highway.

The rules, it seems, aren't binding upon the Senate Democrats. To them, the rules are living, breathing, evolving, and apparently optional.

We shouldn't be surprised, though. We shouldn't be surprised that a party that believes in a living, breathing, ever-evolving, whatever-you-want-it-to-be Constitution, might not think the rules of the Senate are important.

We shouldn't be surprised that the party that believes that morality is unfixed, unhinged, unchanged, unchained to any constants, that all ethics are a situation that this party might break the rules—we shouldn't be surprised.

Is anyone really surprised that such a party with no apparent concern for the burden of debt they are placing on every American family would break the rules to get their way?

We are told they are upset because the Senate just takes too long. They want their way, and they want it now. They want their people confirmed. They don't want to talk to the other side. They won the election. They want their way.

So now they have it. They have bullied and brayed, and they have won the day. The iron-fisted rule of the rule-breakers has now begun.

There will be no return. Are they going to return to the rules halfway, partway? No. I predict they will only go further. If they don't get their way, if they don't get it quickly enough, I predict they will break the rules further.

What passed for gridlock before this will pale in comparison to the poison that seeps from the hands of those who are careless and reckless with the law.

Where the filibuster once created conversation, the iron-fisted rule of the rule-breakers will stifle it. For you see, contrary to popular belief, the filibuster actually fostered compromise, dialogue, and often results. In exchange for the release of nominations, in exchange for the cooperation of the minority party with the majority party, often there were votes on legislation that not everybody wanted. There were discussions, there were amendments, there was dialogue, because we were forced to talk to each other because one side couldn't always get what they wanted. They couldn't slam their fists down in angry tantrum and say: My way or the highway. We want what we want. We don't care what 50 percent of America wants or what 47 percent of America wants. We want our way, and we want it now.

The tantrum used to not work. But now we will live in an era where the iron-fisted rule-breakers will throw their tantrum and they will get whatever they want.

Contrary to popular belief, the filibuster led to dialogue. Every week, the

majority party talked to the minority party. There was a meeting each week in which the agenda for the week was set through dialogue and discussion and compromise, behind the scenes, not always out in public. But there was discussion and compromise every week, because the majority party could not rule with an iron fist.

But now, in the era of the iron fist, in the era of the iron-fisted rule-breakers, why will there be any discussion? Why not just roll over the opposition? Why allow debate? Why have debate? Why have discussion? Why have dialogue? Why have votes? It has been getting less and less—as the grip gets tighter and tighter, there is less debate. There is less voting. There are less amendments. I don't think the American public likes that. I think the American public disavows this place and is unhappy with Congress in general because of a lack of dialogue. But that is where we are headed. We are headed towards less dialogue, not more.

In the past, Republicans and Democrats would come together. They would agree to votes. They would schedule them for the week. They would agree to dialogue; they would agree to nominations; and they would agree to quick and easy votes for noncontroversial nominees.

But if there is to be no rules, what incentive is there for cooperation? If it is to be my way or the highway—if the majority party is simply to roll over, if they are to beat their iron fists upon the table and say: My way or the highway; we don't need you; we don't care that half the country disagrees with our policy, it is our way or the highway; that is the way it is going to be, then I think there will be less dialogue and less compromise.

Historically, the filibuster encouraged a reluctant President to cooperate with oversight from the Congress. This isn't a Republican or Democrat thing. This is about the separation of powers. This is about the checks and balances to power. This is about a President who might say—or not say—whether or not he would kill Americans with a drone.

This is about using the filibuster to get information from a reluctant President. This is about a filibuster that allowed Congress to get information and to force a President to say: I will not kill Americans with drones.

This is about a reluctant President being asked: Will you detain Americans? Can you put an American in jail without a trial? Can you send an American to Guantanamo Bay?

How do we get those answers from a President who is reluctant to answer? Through the filibuster.

The filibuster is an empowerment of Congress. It really isn't Republican versus Democrat. The filibuster is about Congress having power to counterbalance a Presidency. Information about malfeasance or transparency can be pried from a President in exchange for nominations.

Quite typically, holds on nominations were used to get information,

were used to force people to testify. Recently, I had questions for the nominee for Homeland Security. I asked him: Does the Fourth Amendment apply to third-party records? This is a big constitutional question, and there are answers. I might not have agreed with his answer. He said he had no legal opinion on the Fourth Amendment.

I asked him: Can one warrant from a secret court apply to all telephone records? Can every American who has their records with a phone company have their records looked at through one warrant? Is that consistent with the Fourth Amendment?

And this nominee said: I really don't have an opinion on the Fourth Amendment. I really haven't thought that much about the Constitution. But he is going to lead one of the largest agencies in our government that may well have to do with spying on Americans, and yet has no opinion on the Fourth Amendment.

So what would the filibuster do? Historically, the filibuster would stop his nomination. What would a hold do? Would it be petulant? Maybe at times. But for the most part, holds were placed on nominees who wouldn't answer questions. So if you wanted answers from nominees and you didn't want them to get up there and say I don't recall, 49 times, I can't remember, I don't have an opinion today, sir, on the Constitution; then you would hold their nomination. You would hold their feet to the fire.

The filibuster, holds, about slowing things down—this is about the separation of powers. This is about the checks and balances. Currently we have a President who apparently thinks he is more than a President. He thinks he has a few monarchical powers. He believes more he is a monarch than he is a President because he thinks he can amend legislation. More than 20 times ObamaCare has been amended after the fact. They do not come back to Congress. So what would the filibuster do? What would a hold do? It would say to that President: You will obey the Constitution. We have no way to get him in court on these matters. It is very difficult to prove or disprove the constitutionality by a challenge. The beauty of our Founding Fathers is they separated the powers. One of the powers of Congress is the filibuster. It is placing holds. By doing that we check a rebellious or an adventurous President who thinks he can take this power upon himself.

Montesquieu, who is one of the people we look to about the separation of powers, once wrote: When you allow the legislative power to gravitate to the President, when you allow the President to take this power and he can legislate or do whatever he wants, you are allowing a tyranny. That is why Montesquieu wrote you have to separate these powers so no one body of people, no one grouping within government would assume or absorb too much power. That is what is happening here,

by giving up our power for petty partisan reasons.

Let's be very frank with each other. The Senate Democrats have, for petty partisan reasons, taken away the power of Congress, taken away one of the checks and balances on a rogue Presidency. These checks and balances are not something we should stoop to the level of petty partisanship over. By allowing us to do so, what has happened is we have allowed ourselves to give up one of the great checks and balances that was one of the beauties of our Constitution.

The loss of the filibuster truly weakens Congress and it makes the executive, regardless of party, more powerful and less likely to be transparent and less likely to compromise. In short, when you give power to the party in the minority, when you have that power in the party that is in the minority, it works to coax compromise out of people.

In the era of filibusters and holds, someone such as myself who is new to the Senate could place a hold on the Federal Reserve Chairman and release it in exchange for a vote auditing the Fed. Auditing the Fed passed through years ago in the House. It is a transparency bill. We should know what decision happened. Congress created the Fed. People are getting personally wealthy off the policies of the Fed. There is a revolving door between the Fed and the Treasury and the people who sell the Treasury bonds. There are Treasury Secretaries who leave employment in government and make \$160 million a year buying and selling the securities that are bought from a bank that we are not overseeing properly.

There are all kinds of reasons why we should audit the Fed. Every Republican in the House voted for it, 100 Democrats voted for it. You rarely have a bill that 350 out of 435 Representatives voted to audit the Fed. It has been over here for 3 years. It has been held hostage by the Senate majority. The only way the minority party ever gets any votes on anything is by using their leverage, by using the leverage of the filibuster, by using the leverage of a hold—I think often to get something good. There are a lot of things that need to be discussed that are never discussed in this body.

Whether your phone calls, the records of your phone calls, the records of your e-mail should be looked at by your government without a warrant, without an individualized warrant, is something that should have a debate here. We are, in the next week, supposed to go back on the Defense authorization bill. The Defense authorization bill, in 2011, allowed for the first time in our history an American citizen to be held indefinitely. It allowed for the first time an American citizen to be sent from America to Guantanamo Bay and held in a foreign prison in a foreign land, forever, without charge, without trial, without lawyer, without accusation.

When I had the debate on the floor with another Senator over this in 2011, I said, incredulously, you mean an American citizen could be sent to Guantanamo Bay without a jury trial, without a trial by a jury of his peers? He said, yes, if they are dangerous.

Who gets to decide who is dangerous and who is not? Are these questions we would want debated on the floor? One year ago we voted to get rid of indefinite detention; 67 Senators voted to get rid of indefinite detention. Then, secretly in conference committee, it was stripped out by a minority of one or two Senators. So this year we have been prepared for 6 months to have a vote on whether an American can be detained in prison without a trial. We will get no vote because of the iron-fisted rule of the rule breakers. The rule breakers have decided no debate, no dialog, no compromise, no discussion of questions until we tell you it is time—and it never seems to be time.

You have to think about this because there have been times in our history when we have detained Americans unjustly. You have to think about how important a jury trial is for everyone and you do not have to go far back in our history to see times when we made mistakes. Remember Richard Jewel, falsely accused, unfairly accused of being the Olympic bomber in Atlanta about a decade ago. If he had been a Black man in 1920 in the South, he might not have survived a day. Fortunately, he lived in an era when we believed in trial by jury, when we believed that no one should be detained without a trial by jury, no one should be kept in prison without a trial. For goodness' sake, can there be anything more American than that? Yet the law of the land says that is no longer true.

Anybody in our society who ever thinks they have been treated unfairly, whether one is an African American or Japanese American who can remember what happened to the Japanese Americans in World War II, should be horrified that our current law says an individual, an American citizen, can be detained.

The President says: I am a good man and I will never use it. He signs into law the authority for all Presidents for all time to indefinitely detain American citizens without a trial. Yet he says: I am not going to do it. That is not a lot of comfort to those of us who believe in the law. I believe the appropriateness or the ability for us to get to dialog and discussion is important; that the American people want it and that the filibuster actually aided that. I think it aided it. It forced us to have discussion. Without the filibuster, I do not think there will be discussion. I do not think compromise will occur. It was infrequent before. I don't think it is going to occur without the threat of filibuster. The Senate will now be run with an iron fist, a fist clenched so tightly, a power wound so closely that dissent will no longer be heard. Debate will be stifled and amendments to leg-

islation will become nonexistent. They are already rare.

Washington described the Senate as the saucer that cools the tea that boils over from the cup of the House of Representatives. The Senate was that saucer that cooled the tea, deliberating, gave review and time for calmer minds to prevail. The Senate was one of those items that our Founders established to separate our Republic from the whims of an unrestrained majority, from the headlong dash of an unrestrained mobocracy. I think the public will be burned more often as the Senate becomes less saucer and more boiling caldron. The loss of the filibuster will lead to more enmity and less compromise. The death of the filibuster is the death of negotiation. Why negotiate if you do not have to? Through brute force and a disregard for the rule of law, Senate Democrats have found temporary victory—but at what cost?

We will now become the other House of Representatives. Will debate and amendment then become a thing of the past? Will an iron fist smash the saucer that once cooled the tea? Make no mistake about it, the death of the filibuster is the death of dialog. All power that is taken from the minority party is a leverage that is taken from possible compromise. One day I believe those who have seen fit to break the rules to change the rules will regret their actions. The question is, When cooler heads prevail, will there be anybody left with the spirit of compromise?

All one has to do, to see what happens when there is no debate, when there is no dialog, when there is no compromise—all one has to do is look at the health care fiasco. It was passed without any discussion with Republicans—no input, zero input from Republicans. Why? Because at the time, even though we still had the filibuster, Senate Democrats were 60 and Republicans were 40. They did not have to talk to us.

When the majority party does not have to talk to the minority party, they will not. So with ObamaCare, with the unaffordable health care plan he has given us, there was no discussion, no debate—60 Democrats, 40 Republicans. We got a bill that is completely and entirely their baby—no compromise.

The same thing in the House. It passed by brute force by a majority of Democrats and no Republicans.

What we have now is something that is completely unworkable and does not represent the American people. I will be the first to admit we are divided. Not everybody is Republican, not everybody is a Democrat. But the interesting thing is it is about 50-50. It is not 80-20. It is not that everybody or the vast majority in the country want it one way or the other, it is almost 50-50. But instead of having 50-50 solutions come out of here, what is coming out of here is my way or the highway.

You look back, about 1 month ago when the government was shut down,

we were trying to open the government. Every day we tried to open the government. We said what about just delaying ObamaCare a little bit? What about delaying just the individual mandate? No way. We will not negotiate with a gun to our head, the President said. The President bellowed: I will not negotiate. You can't make me negotiate. I will not compromise.

Immediately after the government opened back up he did exactly the same thing we were asking for, he delayed the individual mandate. Of course he did it unconstitutionally and illegally because he did it without the approval of Congress. That is the way it has been from the beginning. This is something that we as Americans should be extremely worried about. This is the stuff of kings, this is the stuff of monarchs, and this is the stuff of tyrants because he thinks he can do the legislation by himself.

But if there is no recourse to come back to Congress, what happens? ObamaCare is a story of favoritism, it is a story of dispensing favors to your contributors, your friends. Should not we have a government where your campaign contribution buys you a different sort of scrutiny? It is no longer equal protection under the law, it is protection based on contribution history.

We have given waiver after waiver to special interest groups. You can see them with a big smile plastered on their face when they come out of the White House. There are special interest groups that have been to the White House hundreds of times. Meanwhile, the Secretary in charge of putting up ObamaCare and getting it started was there once. But hundreds of times special interests came. They paid first. They gave their campaign contributions. They paid, they got access to the White House, and they got a waiver.

Why would McDonald's get a waiver and not Burger King? Why would one business get a waiver and not another? Why would a union get a waiver and not another business that is not union? Is that equal protection under the law? Is that the way we are going to live? That is the way you will live if you allow all the power to gravitate to one person who has no checks and balances.

That is why we are supposed to have a separation of powers. That is why we are supposed to live under a rule of law. Legislation is messy and it takes a while. They no longer have the 60 votes to have his way or the highway. They cannot get everything they want so they do it by executive fiat. But realize that an executive can dictate for good and for harm or does one person always know what is best for the country? So we have been dictated to, all of these changes with ObamaCare, but the bottom line is more people are now losing their health insurance than are gaining it. Those who are gaining it, those who have been forced into ObamaCare, will recognize a few things. They are losing their freedom of choice and they are being forced to pay more.

There are two things that are irrefutable about ObamaCare: You have lost your freedom of choice and you are being dictated four plans. Where there was once hundreds of plans you could purchase for insurance, there are four plans left in America you can choose from, and they are more expensive. Why? Because you are told your kids have to have pediatric dental coverage. What if you don't have any kids? You are being told you have to have infertility coverage. What if you are not married? You are told you have to have pregnancy coverage. What if you are not married? The thing is that what has been outlawed is cheaper insurance policies.

Let's think back to the original problem. Eighty-five percent of Americans had health insurance, right? Fifteen percent of Americans didn't. Of the 15 percent who didn't have health insurance, one-third of them were eligible for Medicaid, and we could have helped them by fixing some eligibility with Medicaid or actually trying to help people sign up. One-third of the 15 percent who were uninsured, some reports said, were not here in the country legally, and then one-third of the 15 percent made between \$50,000 and \$75,000, but they did not buy insurance because they were young and healthy and decided to roll the dice and they perceived health insurance as being too expensive.

The main impediment to the body of people we could have gotten insured was expense. What have we done to help them? We made health insurance more expensive for them. If you are young and healthy, you should want a high deductible with few mandates. That is very cheap. What does ObamaCare give you? It gives you a high deductible and gives you a million and one things you don't need or don't want and it is very expensive. Really what we have done is taken away freedom of choice and given you something you don't want and made it more expensive.

This is the danger of having one-sided, one-party rule. There is no debate and no discussion. And that is what happened with ObamaCare—a lopsided result, a misbegotten legislation that doesn't work, can't work, and is leading to disaster.

Some have said: How can we fix it? Can we make ObamaCare less bad? I am not positive we can. Some are saying—and the President came back unilaterally and said: OK, I will give you another year. Look at it from the perspective of the insurance company. They can offer the cheaper policies for 1 more year. What incentive do they have? You are being told that within a year you have to buy more expensive insurance. Does the insurance company have any incentive to sell insurance that is less expensive again? If you are mandated to buy something more expensive, why would they do something less expensive? Now everybody in the country will be forced to buy something more expensive.

A lot of young people will say: Well, it is more expensive, and the penalty is not that bad for my income. Maybe I would be better off without insurance. Besides, now I can buy it anytime I get sick.

Other than the penalty—there is no incentive to buy health insurance when you are healthy other than the penalty.

Many people may say: I will just wait until I have chest pain, when I am rolling into the emergency room, or until I get in an auto accident, and then I will buy my insurance.

This is about choice versus coercion. We have one party that has decided they know what is best for you. They feel you are not smart enough to take care of yourself. They feel they should be—in a benevolent way—your parents. So you have a party that has decided they will take care of you from cradle to grave, but don't worry, it is free. No big deal. It is free. We are going to give you free health care.

Mark my words. There is nothing free about this. You will pay for this. If you had insurance before, you will pay for this with more expensive insurance premiums. If you didn't have insurance before, you will pay for this with more expensive insurance than you could have bought before.

The question is, How do you make it work? It only works now—if it is going to work at all—through coercion. You are forced to buy something. To me, that is antithetical to what the American Republic was founded upon. We were founded upon freedom of choice. You have freedom of choice every day in the things you purchase. Why is the one thing you are not allowed to have is the freedom of choosing your health insurance?

Realize what this stems from. This stems from allowing government to get so completely in one hand that there are no checks and balances. There are checks and balances between the branches of government, and there are checks and balances between the parties. If you let one party get too strong of a hold in Congress, you will get something that is not the product of compromise and not the product of discussion.

Also, if you weaken the body of the Senate—which was intended to slow down legislation—by taking away the ability to filibuster or to place holds on nominees, once you do that, you are going to get away from compromise.

I think it is important that people know, when they look at this and say: Well, that is just obstruction; Republicans with their filibusters and holds are just obstructing the process, if the process is to run headlong away from the Constitution or to run head over heels and trample the Bill of Rights, you would want things to cool off. You would want that saucer the Senate was that allowed the tea to boil over and cool off.

So the question we really have is, Do we want checks and balances? That is a



big question. We have gotten to the point in our history where so much power has gravitated to the President—not just this President; Republican Presidents also. This is not a 4- or 8-year evolution; this is a 100-year evolution toward a stronger Presidency. We have now allowed Presidents to go to war without congressional authority. We have allowed them to trample over civil liberties without congressional authority.

We now allow regulatory regimes to write so many rules that your elected officials have little to say over what laws you live under. For example, we complained that ObamaCare was 2,000 pages. The Democratic leader in the House of Representatives said: Don't worry; you can read about it after we pass it. That was a mistake, and that is why so many people still don't understand this piece of legislation.

To top it off, this was a 2,000-page bill, but then 20,000 pages of rules were written. Unelected bureaucrats are writing most of the rules. For example, when ObamaCare passed, believe it or not, I think the original legislation would have let you keep your doctor, period. There was a regulation written 3 months after the bill was passed that changed it and said: You can keep your doctor, but you have to pay more, and it has to obey this rule.

Let's just say you can maybe keep your doctor if President Obama likes your doctor. This rule was not written by Congress. It wasn't part of the legislation. This is a rule that was written afterward.

About 3 months later, as they are writing 20,000 pages of rules, a rule comes up that says: If your insurance ever changes, it is not grandfathered in and you will lose your insurance. It will be canceled. You will be forced to be canceled.

The reason millions of people are having their insurance canceled is because the President authorized this through his bureaucracy without the permission of the Senate.

However, it gets more interesting. Occasionally, when a regulation is passed, we can try to stop it. So 3 months after ObamaCare was passed, they passed this regulation that says: You will be canceled. Millions of people were being canceled because President Obama and his team wrote this regulation.

One Republican Senator, Mr. ENZI from Wyoming, stood up and said: No, we will vote on this. We will vote on whether your policy can be canceled. So what happened? It came back. And guess what. The regulation that says your policy can be canceled if it ever changed—the regulation that is allowing millions of people to be canceled—every Democrat in the body voted for it, including a few of them who are running headlong away from the President. They can't get away from the President fast enough. They are running headlong away from the President and saying: Oh, I didn't know that rule

was going to be there. I really thought you could keep your doctor.

Bunk. They all knew it. They all voted directly on it. Not only did they vote for ObamaCare, 3 months later they voted for the rule that is allowing millions of people to have their insurance canceled.

So these Senators who are saying: Mr. President, we might need to fix this, and I have a solution, all voted for the rule. We had a direct vote in the Senate on the rule that says: If you like your doctor, you can't keep your doctor. The whole idea when the President said: If you like your doctor, you can keep him, period—which we have now found to be false—we had a chance to fix it. We had a vote in this body. Every Senate Democrat voted to allow your insurance to be canceled. So if you are one of the millions of Americans who have had your insurance canceled, you can thank the Senate Democrats. Every Senate Republican voted to say you should not have your insurance canceled. Every Senate Democrat voted to allow your insurance to be canceled if it ever changes.

While some people have been wondering how many people are going to lose their insurance because of ObamaCare, the answer is everyone because insurance changes gradually over time. So within a few years everybody's insurance policy will change and you will be canceled. Everyone in America will lose their insurance. They will be canceled eventually, and they will have to buy ObamaCare. So people went from having hundreds of choices for insurance to having four choices in America.

Really what this debate is about is whether you believe in freedom of choice, whether you think you are smart enough to rule over your own destiny or whether you want a paternalistic government that makes these decisions for you. Are we so insecure as a people that we need the nanny state? Do we need the nanny state to take care of us? Do we not want choice? Why don't we extend it to all things? Health care is important, but so is food. Why don't we have the government decide what type of food we eat? Why don't we have the government decide how much we can charge? God forbid we charge too much for food. Shouldn't food be cheap and economical and affordable?

Maybe the government should own the farms. If the government can distribute health care and health care is so important, so is food and water. How can we let anybody in the private marketplace determine water? How can we let private people control water? Shouldn't we let the government be in charge of everything?

The bottom line is this: We shouldn't let the government be in charge of anything that can't be handled by the private marketplace, which means very little should be handled by the government. The reason you want minimal government is that government is not very good at stuff. I tell people that it

is not that government is inherently stupid—although that is a debatable point—it is that the government doesn't get the same signals we get.

In the private marketplace, you get signals. You have to make a profit or you have to meet a payroll. So there are different signals that come. As far as health care and the government running it, there is no signal. They get no feedback. Right now they have a Web site that would have sent any private business into bankruptcy. This would have been a failed initiation, and the company would have gone bankrupt. No company could roll out something as bad as this, but no private company would. The private company is influenced by the marketplace, and they have to make good decisions. The government doesn't make good decisions because it is not required to. That is why when you have a choice on whether something should be done by government or the private marketplace, you want the private marketplace.

Milton Friedman often talked about this. This is a truism of all government: Nobody spends somebody else's money as wisely as they spend their own. The private marketplace will inevitably make better decisions because it is a cruel master. In the marketplace, you have to please consumers all the time, every day. They vote. You have heard the term "democratic capitalism." There is nothing more democratic than consumer and capitalism voting every day, and the people who are rewarded are those who give a product that people want to buy, and they do it in an efficient manner, so people are forced to be efficient. They are forced to have good consumer service.

The consumer is king only in the private marketplace. The consumer is treated as a stepchild if it is government. You are treated with reckless abandon by government. As a physician, I dealt with the government for decades and decades. You know what. It takes at least an hour to get someone on the phone. When you get them on the phone, they tell you they can only answer two questions. If they are not in a good mood, you have to call again. You have to get on the phone again and wait an hour to talk to another bureaucrat who may be surly and may have had a bad day and will probably get a bonus anyway.

If you want government to take over your health care, think of the case of Jonathan Beal. He worked for the EPA for 11 years. He told his boss that he was a spy and that he worked for the CIA. He took 6 months off at a time for years and years. He always got bonuses for good employment, good behavior, and good productivity for 11 years. This is what goes in government. Would that happen for a week or 2 weeks in a private industry? No way would that happen. The government is so big and vast, they have no idea who all is even working in government. We are going to turn that over, our health care system. The bottom line is it will

not be efficient, it will not try to save money; it will try to spend money, and it will not lead to us having lower premiums, it will lead to having higher premiums.

Thomas Payne said that government is a necessary evil, and he was right. That sounds kind of harsh, but the thing is we need to have government, but because government is inefficient, we should keep what government does to a minimum. There are certain things we probably can't have private industry do, including a national defense, an Army, a Navy, an Air Force. Government needs to be in place for that. We have decided with most of our infrastructure to have government involved. We have some private entities involved as well. But do we want government involved in every one of our affairs? Do we think government is going to be distributing goods very well?

Think of it this way: Tomorrow we nationalize grocery shopping. We nationalize and everybody gets insurance and it will be subsidized. When people go to Walmart, they will just pay a \$20 copay. Do my colleagues think they will buy less or more there? People will empty the shelves.

The other day—my colleagues may have heard that food stamp cards stopped working and they didn't have any limits; people just kept loading up thousands and thousands of dollars' worth of stuff. They trashed the whole place, carts were everywhere, and then someone turned the cards back on and there were limits and people had to leave the store. When there are no limits, people will spend without limit. The same goes with health care. So when government gives us something for free, the tendency is to use it. So what we find, for example, with Medicaid—a big part of ObamaCare is the expansion of Medicaid. I wish to help people who can't help themselves. There are a lot of people who are missing both legs and on dialysis and they have \$10,000-a-month insurance. I think we can find a way to help these people. But we have now added able-bodied people to this, generation after generation of able-bodied people, so instead of a temporary hand up, a helping hand, we have turned it into something permanent.

But it is also the most rapidly rising cost in State governments, so State governments, I believe, will ultimately succumb to this burden. In our State it will be a 50-percent increase in Medicaid. In fact, for most of the people signing up around the country, three-fourths of them in my State are signing up for prehealth care. It is not truly free. We are going to pay for it. Anybody who is working will pay for it. But the thing is that what they are signing up for is free.

I think if we expand our safety net beyond sort of those who are not able-bodied or we expand it to make it permanent for people, what it becomes is a drag on the economy and a drag on

everything and it disallows or prevents us from growing as an economy.

We have been having this debate for a while. The President has decided that people who are working just have too much money and he has to take from those who are working to give to those who aren't working. That is not how we get more jobs; that is how we make the pie smaller. If we keep dividing up the pie and shifting the pie from those working to those nonworking, it doesn't help anybody. It divides the pie smaller. There have been times in our country where we have greatly grown the pie, but we have to get beyond these petty things.

The President preaches fear and envy, class warfare. He preaches that if your neighbor has three cars, send me and I will take one of their cars. I will get some of your neighbor's stuff and I will give it to you. The problem is it doesn't make us rich as a nation.

There has been a discussion for thousands of years about whether it is good or bad to spend time coveting your neighbor's wealth. It isn't healthy personally or spiritually for our country. If I labor my whole day saying my neighbor has a Mercedes and I don't—I should instead be saying maybe my son or daughter will be working at the Mercedes dealer selling to somebody who is buying a Mercedes. Instead of feeling jealous and envious of others, I should be saying we are all interconnected and we want more people to rise and be part of the top 1 percent. Instead of taking a meat-ax to those who are successful in our society and trying to drive them down, we should try—in the 1920s, Coolidge took the top rate from 70 percent down to 23 percent. We had a boom. Employment thrived. He balanced the budget. We did it again under Kennedy in the 1960s. Unemployment was once again cut in half. By the time we get to Reagan, the rates had risen to 70 percent again, and Reagan said our economy will boom if we lower rates on everybody, and he did. He lowered rates from 70 percent at the top rate—the top 1 percent. He lowered their rates. He didn't raise their rates. He didn't say covet thy neighbor. He didn't say I will get you one of your neighbor's cars. He said lower the rates and the economy will boom, and it did. We lowered the rates from 70 on the wealthy to 50 to 28 and we had a decade-long boom with millions of jobs created.

We have to have this debate as a country. We can't say the debate is over. If we say the debate is over and that what we need to do is just divide it up, pass the money around, we are going to be talking about a shrinking pie that we pass around.

We also have a pie right now that has millions of people unemployed. So how are we going to grow this economy? Are we going to grow our economy by saying let's tax people more? It is exactly the opposite.

I was in Detroit last week talking about how we could help Detroit. We

can't send money from Houston to Detroit and bail them out. It doesn't work. One, because it is just like when the President did his government stimulus. When the President chose to pick winners and losers, he wound up with a bunch of losers because no central planner knows who is going to win and who is going to lose. Nine out of ten businesses fail. That is why we don't want government choosing the winners and losers.

When they do that, they choose people such as Solyndra. One, it was a little bit unfair on the face of it. The guy who ran the company was the 20th richest man in the country. What business does the middle class—that the President says he is so proud of—what business does the middle class have giving money to the 20th richest man in the country? It turned out people didn't want his solar panels.

But that is the government picking winners and losers, many times based on campaign history and based on environmental politics. It is picking winners and losers and it doesn't work. Why? Because the marketplace, when it winnows out and finds who will be successful in business, who is a harsh task master, but it asks all of you—it asks 300 million Americans every day to vote on which businesses will succeed. So you get to vote every day. So there is a big difference between reducing taxes for those who are in business and trying to stimulate the economy and taxing people in Houston, bringing it up here, and then passing it out to people I think might be good at business in Detroit. No one knows that. No one has that knowledge. Only the marketplace can decide who is a good risk and who is a bad risk.

Banks are part of that, but the consumer votes every day on which businesses are good and should receive more money.

So my plan is basically economic freedom zones. Let's lower the taxes in impoverished areas. Let's don't tax Houston and bring a bunch of money up to Detroit and say: Here, you are going to succeed. The same thing will happen to that money that happened to the last 50 years' worth of money; that is, it was stolen, some of it was misappropriated, some of it was given to the wrong people.

But if we are to lower the taxes for the people in Detroit, I think we could truly help them. My plan would lower the personal income tax to 5 percent for everybody in Detroit. It would lower the corporate tax to 5 percent. We might find people in the suburbs who want to move back into Detroit if their income tax is 5 percent. That is a good thing. People would pay those taxes. Instead of being envious of these people, instead of saying they might buy another car, I might be saying they might buy that car from somebody selling it in Detroit.

The thing is that economic freedom zones and reducing taxes I think would help spur the economy.

There are 20 counties in eastern Kentucky that have unemployment 1.5 times the national rate. A large degree of our unemployment is due to the President and his war on coal. He always talks about a balanced solution, but he doesn't balance his hatred for the coal industry with jobs. He doesn't balance his so-called like for the environment with jobs. When we look at regulations, we should preserve the environment, and we have many Federal regulations that I do agree with on the environment. We shouldn't be able to dump chemicals in a stream. I agree completely with that. The Clean Water Act says you cannot discharge pollutants into navigable waters of the United States. I agree completely. But do we know what they have done over the last 30 years? They have taken that commonsense regulation, which we can probably all agree to, and they now say dirt is a pollutant and your backyard is a navigable stream.

So we have actually put people in prison for putting clean dirt on dry land. As a consequence, I think we spend less time protecting the Ohio River and more time meddling with some property owner. We have gone crazy with regulations because they are now written by unelected bureaucrats. They are not written by people we can unelect; they are written by bureaucrats.

We have to get back to some common sense with these issues. We have to look at how injurious this is. Even things that are well-intended, we think, well, gosh we have to protect the bald eagle and we have to have endangered species protected. I agree. I have two bald eagles in my backyard. They have come for the second year and they are fascinating. They live on the pond behind my house and it is fascinating to see them. But what we have done in the name of protection for the environment and protection for certain species is we have gone nuts with it.

In my State, we are protecting the Indiana bat. I had a guy come up to me and he said: The Indiana bat? They came up to my property and they took a survey and they found one bat. It was already tagged as a brown bat. The scientists had a big fight. Two of them said it was an Indiana bat and the other two said a brown bat, but did they tell me I had to do anything to help the bat? No. They just charged me money to cut down trees on my own land. So it isn't about the bat; it is about money. They charge \$2,400 per acre to chop down your own trees.

Another city in my State, Grand Rivers, when it rained, the sewage was flowing into the river overflowing and they were overcapacity and wanted to have a new sewage plant. They couldn't do it because the EPA was saying we need to know how many pocketbook muscles there are. Are we going to stop the building on the planet? No. What it does is cause hundreds of thousands of dollars to be spent looking at this.

The bottom line is, remember, separation of powers is important, and the

loss of the filibuster I think is leading toward a one-sided party rule and leaning toward less power here and more power in the executive branch, I think all to the detriment of the voter.

At this point, I see my colleague from Oklahoma has arrived, and I yield the floor.

Mr. INHOFE. I thank my good friend from Kentucky.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Since he was talking about the EPA, the overregulations there, I happen to have been privileged when we were in the majority to be the chairman of the committee called the Environment and Public Works Committee. It does a lot of very important things in terms of highways and roads and infrastructure. What the Senator from Kentucky was talking about is all the overregulations that come from that. I am very sensitive to that.

That is not why I am here tonight. In fact, I wish to talk a little bit about the nuclear option, about how this has changed things around here, and it is somewhat of a crisis level we have arrived at. Before I do, I wish to share something on ObamaCare. A lot of things have been said on this floor about the problems with ObamaCare. I wish to elaborate a little bit about that in a minute but not right now. I only wish to say that 2 months ago, when my good friend from Texas, Senator CRUZ, and 11 of us were concerned about trying to do something to stop ObamaCare and we took some pretty drastic steps—he actually stayed up and spoke all night—I did not, but I spoke during the evening and again in the morning. But I told a story at that time. It puts it into a context that people don't understand.

The story was this: Keep in mind this was 2 months ago. I said it has been admitted by Obama and by many of the leaders—even the leader of the Senate—that the ultimate goal of ObamaCare would be the single-payer health care system, very much like what was talked about back in the early 1990s when Bill Clinton was President and Hillary had her Hillary health care and at that time I think it was ultimately going to be a single-payer system. As my colleagues well know, a single-payer system by definition is socialized medicine, and that was what it was going to be at that time. I remember talking—and we ultimately did defeat it, but at that time I asked the question, I said: Wait a minute. You are talking about socialized medicine. It doesn't work in Denmark or Sweden or Canada or in the UK. Why do you think it would work if you were doing it? They never tell us this, but they say it may not work somewhere else, but if I were running it, it would work. We defeated that back in the 1990s.

Now, some time has gone by, and we have very much the same situation. We have a system that is edging into socialized medicine, a single-payer system. This is what they want. This is

what liberals normally do want. They somehow think that government can run things better than people can.

So I told this story. I say to my good friend in the Chair. Keep in mind, this was 2 months ago. It had been less than a year before that when something happened to my wife—and my wife is just a year younger than I am—something happened, and all of a sudden she found out she had to have emergency open-heart surgery. It was a valve that was the problem at that time. We did some research. She immediately had open-heart surgery. It was successful. She is great now. They replaced the valve, and she is in really good shape.

But the point I am making is that if this had happened and we had been citizens of Canada—we went and checked—someone that age with that kind of an emergency would have to wait 6 months before they could determine whether they were going to allow them to have that operation. If it were in the UK, it would be 2 months. She would not have lasted that long.

That was to let people know that when it hits close to home, it really means a lot more, instead of just talking about how many people are not happy with the enrollment and all this stuff.

Well, ironically, what happened to me 5 weeks ago was exactly the same thing. I ended up having to have emergency surgery. I had four heart bypasses. I got to thinking. Just a few weeks before, I had been talking about my wife. I would not be here now. That is how serious this is. Because those individuals who are talking about ObamaCare, they really want a system that the government is running, and it has not worked anywhere else in the world. In cases like mine, I would be on the waiting list and I probably would not have made it this far and would not have been here today.

I only say that—and I want to elaborate a little bit on that shortly, but I need to get in something very significant that is going to take place.

First of all, I do not like the idea of what is going on right now. I am very much upset that we had the nuclear option. I think most people—and it has been said over and over on the floor—constitutionally, we have a system that is set up that puts the Senate in a position where there has to be a supermajority that will ratify the various treaties and will confirm nominees. Well, the nominees who are confirmed are confirmed with a supermajority. Consequently, that would preclude one party from being able to control the confirmation of nominees.

Well, the makeup of the Senate today and for the next year is going to be 53 Democrats dominating, which means, of course, they can always get the 53 votes for confirmation but not any more, not enough to reach 60. So they changed all that, and that is wrong. They should not have done it.

So now we are going through this operation, and I decided that rather than to stay here during this Christmas season for the next few days just voting no

on judges, I am going to say right now that I am going to vote against all the judges, but I am not going to be around here to do it. I will say this though.

#### JAMES NOMINATION

There is one vote that is coming up, and I am going to appeal to the leadership that I hope the confirmation of Deborah Lee James to be Secretary of the Air Force does not come up until this next week because I want to be here for that, and I would hope it could be postponed until Monday. The reason for that is I think that is a great appointment. I do not remember in the years I have been here—and I am the ranking member on the Senate Armed Services Committee—I do not remember anytime when we have had someone who is as qualified at the outset as she is. She has an incredible background for this position. I have met her. I have talked to her. I have talked to her about the concerns about the readiness, which is very serious right now. Our readiness capabilities are lower than they have ever been since World War II. I know she is the right person to be at the helm to take care of that.

It was not long ago that through the sequestration or preparing for sequestration they made a decision to ground one-third of the combat-coded Active squadrons. Now, let's keep in mind that she is nominated to be Secretary of the Air Force, so this is something she would directly be interested in and concerned about.

What they did was, in order to—I suppose at that time the motivation was to try to save money. They grounded one-third of the combat-coded Active squadrons. That was in April of this year. It was not until 3 months later that they decided this is not good because you have the idle airplanes, the idle pilots. Pilots were resigning; they were upset because they were not being used. So they reinstated the squadrons that had been closed.

General Welsh, a great general, the commander of the Air Force, made the statement, and made it in a very articulate way, that it is going to cost us more to reinstate and to requalify the pilots and to make sure the planes are back in flying order than just the amount of money that was saved during that 3-month period.

That is really quite a statement. It is very serious. He said it could cut the flying hours by 15 percent in the months to come—and it has—as a result of that closure.

Well, I have to say to Ms. James that I am convinced you are going to be confirmed as Secretary of the Air Force. I will do all I can to make sure you are confirmed. But you are walking into a hornet's nest. It is a real serious problem there. The things that are happening to our military, which I am going to talk about in just a minute, are very serious.

She has a background. She served with a technical defense contractor in Virginia. It was the SAIC Technical

and Engineering Sector. She was the executive vice president for communications and government affairs and the senior vice president for homeland security. Prior to that, she served as vice president for international operations marketing at United Technologies. That was all the way from 1998 to 2000. She served as Assistant Secretary of Defense for Reserve Affairs from 1993 to 1998, overseeing all matters pertaining to the Guard and Reserve forces. So she has probably as much preparation, background, expertise, education, and knowledge as anyone who has ever been nominated to be Secretary of the Air Force.

I hope we will be able to have that vote maybe on Monday as opposed to some time in the next few hours since I want to be here. I want to be one of the first to congratulate her.

(Mr. COONS assumed the Chair.)

#### THE BUDGET

Mr. INHOFE. Let me say something about the budget. I try to think of things other people have not talked about. I do not even know right now whether I am going to be for or against this budget, but I had looked, and I was very alarmed. The minority staff on Armed Services did some research, and it came out that there are some parts of this act that we did not know were there. It would include an annual adjustment for retired pay and retainer pay for retired members of the Armed Forces under age 62. This penalizes current and future military members who have served our Nation for over 20 years.

Now, keep in mind, people go into the military quite young sometimes, knowing that the time they would serve would be for 20 years—many of them longer but most of the time 20 years. That is kind of a given. They do this predicated on the assumption that retirement benefits and all these things are going to be there. They are making a career decision, I say to the Chair, and that is very significant.

To come along with a bill that supposedly saves \$6.2 billion—there are about 2 million retirees. Of those, just under half are under the age of 62. They would see a steady erosion of their retired pay, approaching 20 percent of their retirement pay by the time they reach age 62.

The 1-percent annual reduction to uniformed service retired pay cost-of-living adjustment—those are the COLAs—for those under age 62 will have a devastating, long-term impact for those who retire at the 20-year point. It implements an annual adjustment to retired pay of the “Consumer Price Index – 1%” beginning in December of 2015. What that means in summary is that you could have a gunnery sergeant retiring at age 42, and by the time he is 62, this bill would cause him to receive in his retirement pay approximately \$72,000 less than he would otherwise. So it is a big deal.

This has not been discussed on the floor, and I think that as we get into

the discussion we are going to have on the budget, we have to keep these things in mind. Again, I have not decided yet because I know it is not an easy job. I know we had a Democrat and a Republican working very hard on it. But that is one thing that I believe can be changed. In fact, it would have to be changed before I would support it.

#### NATIONAL DEFENSE AUTHORIZATION ACT

Well, we went through something, and I want to talk a little bit about the National Defense Authorization Act. Every year we have a National Defense Authorization Act. That act is more important than anything else we do around here, in my opinion.

If you read the Constitution, it will say that providing for the Nation's defense is our major concern. This is what we are supposed to be doing. So we have always had—in fact, for 51 consecutive years we have passed an NDAA bill prior to January. It has always been that way. This is a budget that must take place.

This is very disturbing to me because the House passed an NDAA bill some time ago. We in the Senate Armed Services Committee, way back—was it May or June—we passed the NDAA out of our committee, not unanimously but almost unanimously, and it was bipartisan, had strong bipartisan support to come to the floor. Well, it never came up. And why it never came up is not that important right now. The fact is that we are now in a position where we have to do it and have to have one come up, and it has to be this coming week.

So, anyway, we put together a bill. There is something a lot of people do not understand because it is not very often used, but when the House and the Senate are not able to put something together, they go to the big four. They get the committee of jurisdiction—in this case, the Senate Armed Services Committee. So they had the chairman and the ranking member—the ranking member is the one who has the most rank from the minority, and that is me in the case of the Senate—and then the chairman of the House and the ranking member of the House. Four people. We sat together 10 days ago here in Washington and put together a bill, taking the best parts out of the House bill, the best parts out of the Senate bill, and put together this thing, and it is one that I think—when people understand it—it is one for which I do not know of anyone who would really oppose it.

The problem we are having is that the way it was done was not the way it should have been done. It should have been done as it has been done in the past; that is, to take about—in the last 10 years, it has taken 9 days on average to pass this bill, where we have all of the amendments processed and people come forth with amendments. Well, that did not happen this time. So what we did in this bill is we took 79 of the amendments that people had in the House and the Senate—Republicans and Democrats—we did 79; that is, 41

Republican amendments and 38 Democrat amendments. These are ones that had been submitted on the Senate floor, and we were able to go ahead and put these into the bill.

So we have a good bill. It is out there. We really need to do it. People are concerned about the process. I am concerned. We are going to get busy to make sure this does not happen in future years. We do not want it to happen. But we do not want our service people, who are in harm's way today, to be paying for the fact that we had a procedure that was wrong. We have a vehicle here. We have a bill. It will come up for consideration. It will come over from the House, and I anticipate in the first part of the week we will have this bill.

What does it do? First, it authorizes 37 special and incentive pays, including reenlistment bonuses and certain health bonuses. Here, we are talking about people who are considering reenlisting. Right now they are in the service.

I mentioned a minute ago some of the aviators. Well, this is mostly the Army and the Marines and the Navy. These people are making career decisions. They make career decisions predicated on what they anticipate is going to be out there, and what is going to be out there is what kind of a bonus they will get at the time. Of course, in the event this does not happen, they would not be entitled to these bonuses, if we do not pass this bill. That is how significant it is.

When you talk about certain health professional bonuses, they would expire also.

These health benefit bonuses are very significant, because these are the people who are the health providers for our Wounded Warriors, not just the ones that are in our hospitals today but also in hospice care. We cannot do that to them.

However, if we do not pass this bill, that is going to be a real serious problem. There has been a lot of talk about sexual assaults. We have two Senators, both Democrats, Senator GILLIBRAND and Senator MCCASKILL, who disagree with each other but who have amendments. So what we did is take parts of each one of those amendments—27 specific reforms to support victims and to encourage sexual assault reporting and an additional nine enhancements to the military justice system.

Arguably the one on the floor who knows most about this would be our friend Senator GRAHAM. I think he has looked at these and agrees that these provisions are really very significant, and things that are not going to be there otherwise. These would have been in the House bill and in the Senate bill in the regular procedure to pass these bills, but they will not be there if we do not pass this one bill. They are there.

Gitmo. I look around the Chamber, and it seems like there is such a diverse attitude toward what we have done in the past and will do in the fu-

ture with Gitmo. That is Guantanamo Bay down in Cuba. I have often said from this podium that is one of the few good deals that we have. We have had Gitmo since the year 1904. It costs \$4,000 a year. Half the time Castro does not collect it. So it is a pretty good deal which you do not often get in the government.

It is very expensive to house people there. But it does perform a function that cannot be performed anywhere else. So last year in the National Defense Authorization bill, we put a provision in there, fortunately at that time, that would restore the 1-year prohibition on transferring Gitmo detainees to the United States and to prohibit constructing any type of facility to house them if they are successful in doing that.

That was not good. It should have been forever. But it expires now. That means if we do not have this bill, we will cede that to the President. The President will have total control. If he wanted to take every one of these terrorists out of Gitmo and send them to Yemen or put them in the United States, he could do it. So that is probably one of the most significant parts of this bill.

So this restores the 1-year prohibition on transferring Gitmo detainees to the United States, and it prohibits the construction or modification of facilities in the United States to house Gitmo detainees.

Our training ranges. This bill provides DOD with access to millions of acres of Federal land. Keep in mind, it does not cost anything; it is Federal land—for military tests and training ranges that are really absolutely necessary for the readiness of our combat forces.

We have all heard about end strength. The Obama administration I have often said I think will go down in history as the most antidefense President ever. One of the things that we know is going to happen is the end strength will continue to reduce. This bill allows the Army and the Marine Corps' top people to make the decisions as to where this end strength is going to be reduced and by what amount. By doing this, they can accelerate the strength reduction and save a considerable amount of money. So they will have the flexibility to draw down faster, save money, do it quicker and do it better. Without this bill, they cannot do that.

Military construction. You know, no other military construction can take place. But what is worse than that is, on military construction that has already been started, that is new construction, they would have to stop that military construction. When you do that then you come back later and start it again, it costs millions and millions of dollars more, a lot more money.

Here is another good example of another area that would be a huge savings. Right now we are working on sev-

eral aircraft carriers. One is CVN-78, the USS Ford. It is a huge project. It is 75 percent completed. We have already spent \$12 billion on it. In the absence of this bill, that construction would have to stop. Now, I know that we would come to our senses and maybe in a few months come up with a CR that might have money that would go toward this.

But that is still—when you stop and then start up again, it would be millions, hundreds of millions of dollars of cost. That is corrected in this bill. Not to say anything about the number of people who would be immediately released: 4,300 ship builders who work directly on the ships, and about 1,500 who work indirectly. So it is an economic issue for a lot of people. That is important but not as important as the fact that it is going to cost hundreds of millions of dollars if we do not pass this bill.

The LCS. This allows the littoral combat ship construction to continue in the shipyards. That is in Alabama and Wisconsin. Again, it does not happen if this bill is not passed. That is not going to happen.

Special operations. I think we are all familiar with the special ops guys. I know the chair is very familiar with that. These are the ones who go out there in harm's way and take the risk and are specially trained. The commander there is Admiral McRaven. That is his No. 1 priority—the preservation of special operations forces and families after the 12 years of sustained combat by authorizing various human, resiliency and family care programs. In other words, these people, many of them have families. The families are cared for in a way that has been certainly well deserved by the fighter that they represent. Yet those programs would stop in the absence of this.

So I think that is very important. Just looking at the human end of it, the families, the mothers and the kids that are back there. They have special needs because of the sustained deployments that these great troops have. I would mention also, that in addition to some of the things that we have talked about in using some of the Federal land, this includes land use agreements to ensure special operations. That is what we were just talking about, so the special operations forces have sufficient access to training ranges, including the Chocolate Mountain Aerial Gunnery Range in California, which serves an indispensable role in training Navy seals.

In fact, when you go and you watch them, you see that you cannot train our Navy seals without this facility. So this takes care of that.

Lastly—I could mention a whole lot more—one of the significant things people are taking about is waste in the Pentagon. This provides for an audit of the Department of Defense. It requires a full audit of DOD no later than March 31, 2019. It will take a long time to do this. It has never been done before. This bill will call for the beginning of this process.

We all know about the nuclear triad. The nuclear triad gives us that nuclear capability in our bombers, ICBMs and our submarine-launched ballistic missiles. This bill prohibits the elimination of one of those three legs. We have seen a lot of programs. You could save so much money if you eliminate the submarine element of that.

But in order to adequately protect America, it is important that we have all three legs. So that nuclear triad—and remember that phrase. That is the one where one leg would be eliminated in the absence of this bill.

The prohibition on tech transfers with Russia. This would prohibit the transfer of some missile defense technology to Russia and strengthen the Congressional oversight of the administration's efforts with regard to the United States and Russia's missile defense cooperation.

You know, if we do not do it, the President is going to do it. I would hope that anyone who would be voting in this Chamber knows that is a key issue, and it should be a key issue. We recognize, if we do not continue to take control of that in the Congress, then that would automatically go to the President. I do not think we want that to happen. We all saw what happened in the first budget that the President had. I would never forget that, because I went over—I knew that he was going to be antimilitary, antidefense. So I went over to Afghanistan to respond to it, knowing full well that we were going to have to do something to let the American people know how bad that budget was on the military.

In that first budget of President Obama's, it was 4½ years ago, almost 5 years ago, he did away with our only 5th generation fighter, the F-22; did away with our new lift capacity, the C-17; did away with the Future Combat System, which is the only advancement we have had in about 30 years in our ground capability.

He did away with the ground-based interceptor in Poland. Now, let's keep in mind, the ground-based interceptor in Poland is one that we were putting there because we have currently 33 ground-based interceptors here in America, but they are on the west coast. That is where the threat was at that time. Now things have changed. We found out in the year 2007—it was not even classified. Our intelligence said that Iran is going to have the nuclear capability and a delivery system by 2015, and 2015 is just a little over a year away from right now.

So we knew that way back in 2007. We started building a ground-based interceptor in Poland, with a radar in the Czech Republic. I thought we were doing very well. We had to give them the assurance that we would not pull the rug out from under them if they would cooperate. Then that went out. That was withdrawn in the President's first budget 4½ years ago.

Now we are faced with that threat. Because if something comes into this

country from Iran, it is going to come from the East. If there is a lucky shot from the west coast, that is fine. But I do not have that confidence that could happen. So I say that because it fits in with the missile defense. It directs the administration in this bill to make improvements and modernize the ground-based midcourse defense system. That is what we are talking about here.

Without this, that could probably—not probably, possibly—be the most significant thing that we have been talking about here, because now we are talking about an incoming missile to the United States.

The BRAC process, the Base Realignment and Closure Commission. We have had five of them since 1987. Whether you are for a base closure or not, that is not as significant as it is that we are at a time in history where we have the greatest need to put back some of the money that has been taken out by this administration into our defense system. As good as a lot of BRAC systems are, the fact is that the first 3 to 5 years of the BRAC, it costs money, it does not save money. That is what we cannot let happen. So we restrict the use of funds to conduct a round of base realignment and closures for the coming year, because people are talking about that.

Here is a big one too that means a lot. It means a lot to my son, Jimmy, who is real big time into Second Amendment rights. We are from Oklahoma. We actually believe that stuff. We believe in the Second Amendment to the Constitution, I say to my friend in the chair.

There is a treaty called the U.N. Arms Trade Treaty that the U.N. has. I am the wrong one to talk about this, because I have never seen anything good come out of the United Nations. But in this case it is worse than usual. The UN Arms Trade Treaty is one that our Secretary of State has already signed onto. But it has to be ratified by the Senate.

Well, in this bill, it restricts the funding to implement the U.N. Arms Trade Treaty without the Senate's advise and consent on the treaty. Well, that is important. In fact, it reminds me a little bit of what happened when we had the budget vote a few months ago. At that time, I am trying to remember now, but I think it was 5 o'clock in the morning. You would be surprised the kind of amendments you can get passed at 5 o'clock in the morning.

So at 5 o'clock in the morning, I had an amendment that said that we would not allow the United States to join—to be a part of the U.N. Arms Trade Treaty. That was good. But this reinforces that and says that—it restricts it. So if we were to do it, even if the Senate were to do it, it would restrict the funding so it cannot happen.

So I would say to all of my friends out there who believe in Second Amendment rights, who have been concerned that through a U.N. treaty you

could lose the Second Amendment rights, do not worry about it because we would have it. If we pass this bill, you are going to be well taken care of.

So I feel very good about the provisions in this bill, I really believe that, when you stop and think about the fact that we actually had 79 amendments that were agreed to in this bill that we tried to pass before.

The Senate Armed Services Committee adopted its version of the NDAA by an overwhelming bipartisan majority in June, and yet we know what has happened. We know why it is necessary because this is the last shot we actually have at a bill.

The House, at 11 o'clock Friday morning, will go out of session. They will be adjourned for this year. The week after that the Senate will. That shows the time we have to get all of this done. That is why there are those individuals who say: You don't have to adopt a bill that the four of you put together. Even though it may be good, we want to have a lot of amendments and go through that process. Unfortunately, there is not time because if we did that it would have to go over to the House. They are already adjourned as of 11 o'clock Friday morning.

We are out of time and the only choice we have now is either to adopt this or not have a bill at all. As frustrated as I am about the process, we have a commitment to provide our military men and women the support that they require, and we have a bill that will do that. If we fail to pass the NDAA, it would send a terrible signal to all of our troops over there.

I have a card of some of the things that we would lose that I mentioned on that rather lengthy list may not happen until next year, may not happen until the first part of the year. Some of them would take place in February and some in March. What would happen is a question that was asked by our fine Senator FISCHER from Nebraska.

She said: What would happen at the end of this year on December 31. What provisions would we lose if we don't pass this bill?

The answer is there are several of them, and I will highlight a few of them. One would be the bonus for new officers in critical skills, the incentive bonus for conversion to military occupational specialty to ease personnel shortages. For those of us who have been in the military, that is called the MOSs.

The incentive bonuses for transfer between armed forces. Someone who is transferred from one area to the other, we have the obligation to pay his expenses and without those bonuses, we wouldn't be able to do it.

Aviator officer retention. I mentioned a minute ago that one-third of the combat squadrons were deactivated, they were grounded and the pilots with them. I talked about that and how General Welch gave us a good documentation. That endured for 3 months. At the end of the 3 months the



amount of that money that was saved by grounding that equipment was far offset by the amount to get people back up to the correct qualifications.

One of the things that would happen is the aviation officer retention bonus. This is to keep these pilots in the service, because it costs much less to retain a pilot than it does to retrain one and start from scratch. I know that. We have a couple of the Rangers in my State of Oklahoma in Vance Air Force Base where I will be tomorrow. That is one of the largest centers that we have training pilots.

Our problem is a pilot shortage. One of the reasons is because, as I just said, if they are grounding these airplanes these pilots finally say: If I can't fly, I am getting out of here.

There have been a lot of them who have left. The only thing that would hold them would be the existing aviation officer retention bonus. This gives a bonus for someone to re-up.

If anyone has been in the services, they will remember—as I do from the U.S. Army—that when they are trying to get people, to encourage people to re-up, it is a lot cheaper to retain someone than it is to retrain them. We give them bonuses. We did that when I was in the service. That is a bonus they would not get.

With already a serious problem with a shortage of pilots, we have to do something about that. That would abruptly stop December 31. That means the pilots making this decision may not even know this. They may decide they are going to do it and then they find out they don't have a retention bonus.

The assignment pay or special duty pay, this would be for transfers. This would be something you would not be able to do, as well as the hardship that would have to be borne by the military.

Healthcare professionals bonus. This is important. If we go out to Walter Reed and see the great job that is done by the professionals with our wounded warriors, it does impress people to see what is going on. I am very excited to see that program has been good. But these health care professionals operate on a bonus or special pay. That would stop December 31.

I know they are committed, they would stay as long as they could, but some of them couldn't afford to do that. This would stop on the January 31.

Reenlistment bonus for active members, that would stop also.

What I am saying is we are going to have to do this bill. It is absolutely necessary. I am not the only one who says that.

If we look at General Dempsey—talk about the deteriorating condition of our military now—keeping in mind that with this President over 4½ years ago, over this 10-year budget, he has taken over \$487 billion out of the military, if we have Obama sequestration as it is designed now, that will be another \$500 billion. That is a total of \$1 trillion.

General Dempsey is the top military person in the military. He is the chairman of the Joint Chiefs of Staff.

He said:

But I will tell you personally, if ever the force is so degraded and so unready, and then we're asked to use it, it would be immoral to use the force unless it's well-trained, well-led and well-equipped.

Admiral Winnefeld, the second in charge, the vice-chairman of the Joint Chiefs of Staff, said: "There could be for the first time in my career instances where we may be asked to respond to a crisis and we will have to say that we cannot."

Secretary Hagel, I opposed his confirmation when he was in. Actually, I think he has improved so much more than I thought he would since that time. He is not afraid to talk about these things. He said: "If these abrupt cuts remain, we risk fielding a force that over the next few years is unprepared due to a lack of training, maintenance, and the latest equipment."

It is America he is talking about. This is the Secretary of Defense.

Another thing General Dempsey said—in fact, I carry a card around with me because a lot of people don't believe this. General Dempsey at one time in February 2013, this year, told the Senate Armed Services Committee that: We are putting our military on a path where the force is so degraded and so unready that it would be immoral to use force.

General Odierno, the Commander of the Army, said: Additionally, it is unlikely that the Army would be able to defeat an adversary quickly and decisively should they be called upon to engage in a single, sustained major combat operation.

When we talk about a major combat operation, we are talking about one they used to call the combat operations where major contingencies are on a regional basis.

Our policy, since World War II, has been able to do this to defend America on two regional fronts. That has gone out the window and we are not able to do that anymore.

Secretary Hagel also said: "If sequester-level cuts persist"—which is what we are talking about, the second half trillion that Obama would be taking out of the military—"we risk fielding a force that is unprepared."

I can't imagine hearing that from our own Secretary of Defense, but it is there.

I wish to show us why our choices are down to only one choice.

On this chart if we look at December, today is the 12th. The House leaves at 11 o'clock Friday morning. They are gone, they are gone for the rest of the year. Anything we do that has to go to the House, they won't be there. It can't be done. We work for 1 more week starting the December 16, this coming Monday, and we go all the way through the week where we will be in session. Anything we would do or pass or amend could not go to the House, and that

means we would go into December 31 without any kind of advance authorization. On that basis it is significant and that shows we actually have to do it.

I think I mentioned this. I have a chart, but I don't have it in front of me—show since 1970 we always have had our Defense authorization done before January. The only two exceptions to that were when they were vetoed by the President on two occasions and we had to override the veto. Nonetheless, that is why this month is the last chance we have to do it.

I would mention that there is such popular support for this around the country that we have extremes—not really extremes—but publications generally considered to be on the progressive or moderate side and some conservative.

This is one where both the Heritage Foundation and the Washington Post say let's pass the defense deal. It has to pass.

The Heritage Foundation has an extra paper that if there is time later on I may make some quotes from that.

The Washington Post says:

With the end of 2013 rapidly approaching, Congress has an opportunity to rise above a year of massive dysfunction and prevent major disruptions in U.S. defense operations. The leaders of the Senate and the House armed services committees have managed to fashion a bipartisan version.

That is what we are talking about when I say the big four, so this is what we are talking about.

Continuing:

It's a decent compromise that the leaders of both chambers ought to embrace and bring to a vote in the coming days.

A failure to do so would be a new political low for this Congress. The NDAA has been passed 51 consecutive years, even when much of the rest of government had to make do with temporary authorities. But much more than political symbolism is at issue. Though defense funding ultimately must be provided by appropriators, the authorization bill extends vital Pentagon authorities and ultimately sanctions new operations.

If no bill is approved by Jan. 1, combat pay and bonuses for U.S. troops in Afghanistan and elsewhere would be suspended; work on major weapons systems, including a new aircraft carrier, would be halted at considerable cost; and support for the Afghan army and the disposal of Syria's chemical weapons would be interrupted at a critical moment.

The bill also contains important measures to combat sexual crimes in the military.

We talked about that, but this is being editorialized, not by me on the floor of the Senate, but by the Washington Post.

They talk about Guantanamo Bay and they say:

... advance the closure of the Guantanamo Bay prison—

It could take place in the absence of this legislation.

Continuing:

Though a proposal was favored by Sen. Kirsten Gillibrand (D-N.Y.), providing for the prosecution of sex crimes outside the military chain of command, it was not included—did not receive a Senate vote—some three dozen other reforms in legislation would make the punishment of these crimes

more likely while providing more protections to victims.

Let me conclude this editorial by reading the next-to-the-last paragraph. It says:

Other measures in the bill ought to attract broad bipartisan support. The effects on defense of the so-called sequester would be eased by transferring money to operations and training from less essential accounts, such as construction and staffing in office headquarters. The Pentagon is still vulnerable to a \$50 billion sequester cut in January unless a separate budget deal can head it off. But passage of the authorization act would prevent the worst disruptions of ongoing operations.

It goes on to say that this is in the House and the House, very likely, is going to pass it, and send it over to the Senate, and they strongly support it.

We have letters from all of the Armed Services to us and to the leader, Senator HARRY REID. This one is from Martin Dempsey. He is urging us to pass this. It is not only me and a handful of Senators, this is the military speaking. He is the top military personnel.

He said:

I write to urge you to complete the National Defense Authorization Act this year. The authorities contained therein are critical to the Nation's defense and urgently needed to ensure we all keep faith with the men and women, military and civilian, selflessly serving in our Armed Forces.

He goes on to say, "This is the most significant concern we have right now," that we may not be able to pass this bill.

We have a letter from General Welsh. General Welsh, if you remember, is the chief of the Air Force. He is the one who is so upset with the fact we had grounded some of our combat squadrons. He says:

The FY14 NDAA contains critical authorities that enable us to protect the American people while keeping promises to our active duty, Guard, Reserve and civilian Airmen. If this important legislation is not enacted I worry about significant impacts to Air Force operations that could jeopardize the missions we are tasked to perform.

He goes on to say how important that is; that it is a matter of life and death to many of the airmen who are out there.

We have the same thing from General Amos of the Marine Corps, who says:

... our hard-won gains on the Twenty-nine Palms land expansion will be threatened, and the construction of the next generation aircraft carrier, the USS Gerald R. Ford, will stop. Passage of the this vital legislation will prove to our Marines and Sailors our unwavering support.

That is what we are talking about because those are the guys who are out there.

I see my good friend from Arizona Senator MCCAIN, and I would say I have been talking about the degraded condition of our military right now and how much worse it is going to be if we are not able to do this bill that I have outlined in some detail. Hopefully, we will be successful in doing that.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. I ask unanimous consent to engage in a colloquy with my friend from Oklahoma.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. First, I thank the Senator from Oklahoma for his leadership and his dedication to getting this authorization bill passed. I think my friend from Oklahoma would agree with me there is no reason we are where we are today.

Is it not true this bill was passed out of the Armed Services Committee in May and here we are now in December just now contemplating bringing it to the floor of the Senate?

Mr. INHOFE. I would say to my friend that is true, but also, over in the House they did it the way it should be done. They passed it out of committee, they got it to the floor and passed it. Ours was passed by a huge bipartisan margin. We only had three or four vote against it, and that was way back in—I think it was the last of May or 1st of June. It should have been done back then instead of waiting until 1 week before we are out of here.

Mr. MCCAIN. With all due respect, one has to wonder about the priorities of the group and the leader who sets the agenda for the Senate. One of the real advantages of being in the majority is you set the agenda. So rather than take the bill to the floor, as we have for 51 years—for 51 years the Congress of the United States has taken up and passed a Defense authorization bill—we are now here in December, with the House of Representatives going out of session tomorrow, and we are faced with an unsavory parliamentary situation where we are having to maneuver in a way that a "message"—and my friend from Oklahoma can correct me if I am wrong—a message that cannot be amended, otherwise it would have to go back to the other body, which is going out of session, which would then take us into January.

I ask my friend from Oklahoma: Isn't that where we are, and isn't that a commentary on the concern my friends on the other side of the aisle, the majority leader, has about the men and women who are serving in the military?

We will talk a little about what a failure to pass a Defense authorization bill is. But we are now in a situation which is a disservice not only to the men and women who are serving but to all of us—to every one of the 100 Senators—because every one of these Senators would want to have an amendment to make this bill better and that will impart to the rest of the body their knowledge, their expertise, and their priorities. So what are we doing? We are asking Members on this side of the aisle and the other side of the aisle to accept a piece of legislation without a single amendment to it. That, my friends, when we are talking about the defense of this Nation, is absolutely outrageous.

Would my friend from Oklahoma agree?

Mr. INHOFE. It is right up here. It shows the House, on Friday, at 11 o'clock, is out of here. They are gone. They are adjourned. If something should happen—we were to amend something—they are not there. So it can't be done. This is where we are now. We only have these 5 days that are left.

A lot of people have said—and I would ask my friend from Arizona if he agrees with this—well, we can come back in January and do this. But then look at this. We come back on the 6th of January, and the CR—the continuing resolution—is here. I can assure you, from past experience, that will dominate the floor. They are certainly not going to have time to do it. So the only shot we have is up here.

But also important, I read a list of things before my good friend came in, that expire on December 31, and those are things that are happening right now to all of our pilots. My colleague certainly knows about that. They have bailed out. They are gone now. They are so upset with what is happening with the grounding of our squadrons. If we take away their reenlistment incentive, are we going to have any pilots left?

Mr. MCCAIN. So we have established, by the calendar and by what has happened since May, that, obviously, the majority and the majority leader had a higher priority for whatever the hell it is we did rather than the defense of this Nation. That is a fact. I would challenge anyone on the other side of the aisle to come and argue differently. It is outrageous.

Now that we have established that, could I ask my friend what happens—and I know he has gone through it—what happens to the men and women in our military if we do wait until January, if we do wait until February or March or don't act at all?

For example, one of the best examples I have seen is that right now a married sergeant in the U.S. military who is serving as a helicopter crew chief in Afghanistan, beginning on the 1st of January—please correct me if I am wrong—will lose \$890 a month; is that correct?

Mr. INHOFE. That is correct.

Mr. MCCAIN. So we send people into combat, and while we dither around here we are going to keep the men and women who are serving in harm's way from getting the benefits they have earned and deserve and are theirs by law. But we are not going to act, at least until January, perhaps.

I know the Senator from Oklahoma has gone on with a very long list about the completion of ships, about the health programs, and about a number of other issues, but I wish to focus for 1 minute on one area with my friend from Oklahoma.

I think all my colleagues are aware, and the American people are aware, there is a serious issue in the U.S. military. It is a very serious issue and it is the issue of sexual assaults. It is the

issue the Senator from Oklahoma has spent untold hours in discussions and debate and learning about this issue because it is a terrible thing that is going on in our military today.

Under the leadership of the Senator from Oklahoma and the distinguished chairman of the committee, Senator LEVIN, we have—and with the participation of every member of the committee, under their leadership—come up with a way to, at least to a significant degree, address this problem in the military.

There are still some controversial aspects of it that are not necessarily either side of the aisle but just a different viewpoint. But I would argue and ask my friend from Oklahoma, is it not true that we have made significant improvements in the Defense authorization bill on the issue of sexual assaults?

These changes, after hearings, after debate, after discussion were put into law and they were agreed to as being very necessary measures to try to bring this terrible situation of sexual assaults in the military under control. I ask my colleague from Oklahoma if this isn't, among many others, an issue that needs to be addressed.

Mr. INHOFE. I respond to my friend that it was addressed in the House bill and in the Senate bill, but the Senate bill didn't pass, so this is all that is left. Specifically, 10 days ago, we were meeting and putting this together—the big four, as they call it. It had 27 specific reforms in this area to support victims, to encourage sexual assault reporting, and, in addition, nine enhancements to the military justice system.

I mentioned our good friend from South Carolina, who is probably the expert in this area, and we consulted him, along with a lot of the other people, both Senator GILLIBRAND and Senator McCASKILL had amendments and we have bits out of each one of those amendments they had. They are both better off than they were before. But without this, we got nothing—no changes at all.

So we have made great progress in this bill in the sexual assaults, as well as I mentioned Gitmo too which is a very controversial issue.

Mr. MCCAIN. Would the Senator agree that even though there is significant difference between Senator GILLIBRAND and Senator McCASKILL, they were in agreement with the many provisions my colleague just pointed out, which, whether we address their disagreements or not, they were both agreed these are very important measures they both agree on, that the entire committee agreed on in addressing this issue of sexual assaults in the military.

Mr. INHOFE. That is exactly right. As you point out, they were apart on a lot of issues, but what we did was to take those areas that will improve the situation and adopted them, and they are a part of this bill. So the whole issue of sexual harassment will not be

addressed at all in the absence of this legislation. Of two of the very significant provisions that are here, certainly that is one of them.

I mentioned a minute ago the other one. I know we have had differences of opinion between us on the whole Gitmo thing. Yet we have a provision in there now that I think satisfies us both until we all have time to sit down and work these things out.

The bottom line is this: We have things where it would cost huge amounts of money. If you just take the CVN-78, they would have to stop construction, after we have already spent \$12 billion, and after it is 75 percent done. That cost would be tremendous, especially when we all know we will go back and reinstate it. But this wouldn't be just millions, it would be hundreds of millions of dollars. That is what is going to happen if we don't pass this bill.

Mr. MCCAIN. I know long ago both the Senator from Oklahoma and I served in the military, which is not too relevant anymore, but both of us keep track of the military. We visit our military installations, and we spend time with the men and women who are serving both here and overseas. We are in communication with them. It is part of our privileges as their representatives, whether they happen to be in our home State or serving overseas in harm's way. When you talk to these young people—and they are the bravest of the brave and we all know the best of America—they do not understand why, when they are serving in combat and they are entitled to some additional pay because of being in danger, that will not happen. They do not understand why the bonus of special duty and incentive pay will lapse. They don't understand why that should happen. They do not understand why we are not addressing the issue of sexual assaults in the military. Many of them are deeply concerned about that.

By the way, I would also add—and I think my friend from Oklahoma will agree—this issue impacts on recruiting the most highly qualified young Americans.

So here we are on December 12 and we have still not completed our duty, our obligation to the men and women who are serving. They rely on us. They rely on us to take care of them. They rely on us to provide them with the weapons and the capabilities and the pay and benefits and to take care of their families. They rely on us. I am getting feedback from them that they are now beginning to believe we don't care that much. Frankly, I can't argue with that because why are we here in December? Why are we here in December? The fiscal year ended on 1 October. They ask: Why is it that you in Congress can't act to provide us with the tools we need to carry out our mission of defending the Nation?

Frankly, I don't have a very good answer, but maybe the Senator from Oklahoma does.

Mr. INHOFE. My colleague is fully aware, because no one has spent more time over in these areas of hostility than my good friend from Arizona, that when you talk to these guys, and you sit in the mess hall with them, one of the things—and we know this is true because we have both had experience in the military—they are talking about is their careers.

They are talking about their careers. Right now our retention is as good as it has ever been. What is going to happen to our retention if all of a sudden we renege on the reenlistment bonuses that they all depend upon? They all talk to each other. About the time that stops on December 31, I have great fear over what is going to happen to our retention rate.

I talked about in the very beginning about what has happened in the military in the last 4½ years, and I read all of the statements from our commanders, from Dempsey, and actually even the Secretary of Defense, talking about what a crisis it is. They all said it is much more of a crisis if we don't pass this bill. This isn't going to help us like it should. We should be in much better shape than this even if we pass it. But we have to pass this or all those things we talked about which are going to be affecting our troops directly are going to take place.

Mr. MCCAIN. I finally say to my friend, I thank him for his leadership. I thank him for his willingness to really short circuit what should have been a 2- or 3-week exercise, where every Member of the Senate would have had the opportunity to propose amendments, to debate those amendments.

My colleague just mentioned the issue of detainees which is still something that deserves great scrutiny by this body. The issue of surveillance is clearly one that needs debate and discussion on the floor of the Senate. There are so many issues that we are not discussing in the slightest because we are now entrapped by a process which doesn't allow us to pass a single amendment to this absolutely vital piece of legislation.

I thank my friend from Oklahoma for understanding that even though we are placed in this incredibly unsavory situation where we are not able, every Member of the Senate who chooses to—and as the Senator from Oklahoma knows well, when we consider the Defense authorization bill, there are literally hundreds of amendments that we consider because of the interest and the commitment that all of our colleagues have. We are not going to be able to do that this time. But it seems to me too, at least we ought to get the bill passed so we can get our Defense Department and the men and women who are serving in it in the kind of condition they deserve.

Mr. INHOFE. I thank my friend from Arizona for coming down and showing what a traumatic situation we have right now. I hope two things come from this. First of all, that we go ahead and

pass the NDA bill and then make sure that next year we are there to make sure this doesn't happen again in the same way it has happened.

I ask unanimous consent to have some testimonials printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### OKLAHOMANS ARE HIT HARD BY OBAMACARE

It took me three days to sign up for ObamaCare due to website glitches. When I finally got through, I saw my own premium rise 20% and my out of pocket costs go up. But this is nothing compared to what Oklahomans are experiencing. In just a week's time, I received more than 400 stories from my constituents impacted by ObamaCare.

Julia in Broken Arrow said that to keep her family's current plan, they will pay an additional \$1,400 in premiums and another \$4,000 out-of-pocket.

Lloyd, from Tecumseh, says he is dropping his current insurance and choosing to pay the penalty after learning his monthly premium will jump from \$592 to \$1,952.

Stacy, a mother of three in Oklahoma City, shared with me that her family's health insurance premiums will increase 20%, with an additional \$6,000 in out of pocket costs per person, up to \$18,000.

Joy of Oklahoma City said her family's deductible is increasing by \$2,000 and they will have to pay out of pocket for prescriptions. This will create significant financial difficulties for them as her husband is battling cancer.

Greg and his family, who live in Oklahoma City, are worried about having to choose between making a monthly mortgage payment of \$1,100 or an insurance payment of \$1,197.

Jim, with employer coverage in Choctaw, is facing a deductible increase of \$4,000.

Janice is currently on a COBRA plan in Sapulpa. On a new exchange plan, she will be paying \$240 more each month.

Paul, who says he is in good health and rarely requires a visit to the doctor's office, will be paying \$70 per month.

Ralph, who has employer-based insurance in Durant, will pay \$80 more each month.

David from Owasso let me know his family's premium and deductible will increase by \$318 a month and \$500, respectively.

Linda in Pryor says ObamaCare has doubled her deductible and increased her out of pocket costs by 30%.

Darrell, who has a group plan in Cashion, is expecting his premiums to go up 40% and his deductible to double.

Ed, a widow in Oklahoma City, will be paying \$250 more in premiums every month.

Linda, from Chelsea, says her family's deductible has increased \$700.

Roger, who is on a fixed income in Comanche, says his premiums have doubled.

Peggy in Boise City said her deductible has increased 250%.

An employer in Tulsa says he must choose between a 128% premium increase or a 500% increase in deductible for his staff.

A small business owner in Oklahoma City reports that the cost of the insurance he provides to his employees has gone up 41% and will cost him \$1,000 per month more. Because of the mandate to have insurance, more of his employees are now electing coverage, which will drive his costs up even more.

A family of four in Shawnee is facing a 20% increase in premiums and a \$1,500 increase in deductible.

A single father of two and small business owner in Lawton says he will be paying 24% more in monthly premiums.

A family of three in Miami is choosing to go without insurance and pay the penalty

rather than see their premium double and deductible increase by \$3,200.

Nancy from Oklahoma City said she probably should be one to support ObamaCare due to her income, but can't because "it is not the right answer". She believes the government doesn't have the right to tell her how to live or define what is "affordable" for her.

Sharon from Oklahoma City went onto the website. Despite entering in her full name, social security number and address, her identity was not able to be verified. She said she spent 5 weeks trying to get someone to assist her and at this rate she is ready to give up and pay the fine.

Erin from Beggs is a wife and a mother of three. She was dropped from her insurance company and instructed to enroll in ObamaCare. She has tried to access the website since it was "fixed" and has not been able to get past the first step. She is repeatedly kicked off and has to re-enter her information every time she goes on the site.

Janice from Sapulpa spent over 40 hours attempting unsuccessfully to apply for insurance on Healthcare.gov. She finally asked for them to send her a paper application and when it arrived, it was in Spanish.

The OKC Chamber of Commerce can no longer offer insurance plans to its members since the plans don't meet mandated requirements, impacting 1,400 businesses.

A 50-year-old female from Chandler said she and her husband were dropped from their insurance plan. The plan offered to her now includes maternity care and pediatric dental care—neither of which she needs—and will cost over 200% more per month.

Cyndee of Suphur lost her family's insurance plan while she was still in a critical time frame for treating her cancer. She called this a "scary" experience. She had this plan for 10 years until ObamaCare deemed it unworthy. Cyndee wrote to me about her new plan under ObamaCare and said: "No one wants affordable insurance more than me, but at \$1,100 a month, just for me—one person—it's certainly not affordable."

A married father of two from Muskogee was also dropped from his insurance plan. The plan offered to him as comparable in coverage would cost him and his family 46% more than what they used to pay.

Another male, from Edmond, was dropped from his employer sponsored health care. The plan he had through his employer provided him with a 75% employer subsidy on his deductible and covered 100% of his medical bills.

Rockey from Enid said he and his wife's hours were cut at work to 25 hours a week because of the employer mandate. Now that they work part time, they are no longer eligible for coverage through their employer and ObamaCare is not affordable for them.

Jessie from Moore said her husband's employer is considering dropping spouse and dependent coverage due to the rising costs of health insurance.

Debbie of Frederick said she is fortunate enough to still have insurance through her employers, but because of mandates in the Act, their family doctor of 30 years has had to eliminate hospital visits from his services. Any time Debbie is in the hospital, the doctor who knows her health the best can no longer be on the front lines of helping make health decisions with her in the most crucial circumstances.

Donna from Elgin said not only have her insurance costs gone up, but two of her doctors have left their practice. She cannot afford the new health insurance, and is having troubling finding new doctors.

Roderick from Shawnee said within a three-month period, three of his doctors have chosen to retire. He is worried about finding new doctors his insurance will cover.

This is devastating. We absolutely need to bring the cost of healthcare down, but ObamaCare is clearly doing the opposite. My colleagues and I have supported common-sense ideas like purchasing insurances across state lines or enacting tort reform. We could have started here, but instead, President Obama forced America down a destructive path that will likely end in a single-payer option. We must repeal ObamaCare and put common sense healthcare reform in its place. I'll continue this fight to ensure Oklahomans have quality, affordable health care options.

Mr. INHOFE. I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Mr. President, as we consider some of the nominations before us, we are reminded that one of the reasons we have all these problems around the country associated with ObamaCare and all our constituents are being impacted in such a negative way by higher premiums, higher deductibles, higher taxes, and fewer jobs is because of the overreach of government.

This is a perfect opportunity for us to discuss the fact that overreaching government—in this case, government which has literally taken over one-sixth of our economy—is causing great harm to the American people and that there is a much better approach most of us here advocated when this was debated. Of course, at the time we didn't have the votes. This was passed in a party-line, partisan way and, as a consequence, we are seeing now the results and the impact on the American people, all of which are very harmful to their own economic circumstances.

I have a personal example from the emails and letters coming into my office of the adverse impact of ObamaCare. This comes from a female constituent of mine in Wilmot, SD. She writes:

My husband and I have four small children and purchase our own health care.

My husband runs his own business and I am privileged to stay at home.

We are very healthy, so we have always purchased a plan with a large deductible, so we can afford a reasonable premium.

Today we received our letter from our health insurance provider letting us know that next month our premium will be jumping 232 percent! That's over \$500 more a month—and we barely use our health insurance.

We currently live in an 1,800 square foot house and have been trying to find something bigger. This jump in our monthly health care premium could prevent us from being able to afford any kind of monthly house payment.

... ObamaCare is cutting into the carefully-planned budgets of American families, holding them back from the futures for which they have carefully budgeted.

This is just one example of the harmful economic impact ObamaCare is having on countless Americans from my State of South Dakota.

The PRESIDING OFFICER. The Republican leader.

Mr. MCCONNELL. Mr. President, I realize Democrats want to deflect attention of the impact of ObamaCare from our constituents. That is one of

the reasons we are having these nominee votes. But our constituents have the right to be heard, so I wish to share some thoughts from a constituent of mine in Owensboro, Cheryl Russell. Here is what she wrote:

We got a letter from our insurance company saying our current policy will not meet the affordable care act, which means it will go away.

According to our insurance company, we will have to take pediatric dental and vision insurance, [even though] we don't have kids. They said it was because of ObamaCare.

She goes on:

Another plan . . . will cost us over \$150.00 more a month plus our deductible goes up to \$5700.

Please keep taking a stand against Obama Care . . . not only are we going to lose our insurance, but when we go to a different policy we have to pay more. . . .

We are 58 & 56 years old. We will have to work the rest of our lives just to pay for our insurance. . . .

This isn't fair and it isn't right.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BLUNT. Mr. President, I wish to share a couple letters I received just today.

I was talking earlier in the day on some of these situations and again what happens when one side thinks they can do whatever they want to do and the consequences of that.

This letter is from Paul from East Prairie, MO, in the Missouri bootheel:

Upon hearing the potential changes coming January 1st, I decided to investigate the stories I heard. I learned that in 2014 my family's premium would go from \$597/mo with two \$5000 deductibles to \$1119/mo with two \$4300 deductibles. My cheapest option is \$1,085.00/mo with a \$12,700 deductible.

Not only was this unaffordable, it was pointless to have insurance.

Certainly, I agree with that. If your deductible is \$12,700 and you are paying over \$1,000 every month to get insurance, what is that? It is certainly not affordable health care.

Here is a letter from Tom in St. Louis, who said:

My company is a great company to work for, but unfortunately our health insurance policy went from \$490 to \$690/month. That is \$200/month that I can't put towards my kids' education. That is a lot of money for a working guy to come up with every month. My co-workers are struggling with this increase too. I will look into all the options available and hope we do not have doctor changes. We are familiar with the plan we had and we liked it.

A third one from Sherri in Holts Summit, MO. She had a preexisting condition and was in the high-risk pool. She said:

I saw the price, the co-pays and the deductibles and I can't afford it.

So it looks like I will suffer on and have even less money while having a policy I won't be able to afford to use.

We are getting those letters every hour of every day. I think it is not what the American people thought they were going to get.

The PRESIDING OFFICER (Mr. MARKEY). The Senator from Iowa.

Mr. GRASSLEY. Mr. President, there is more wrong with the Affordable Care Act than just the Web site not working. In fact, the Web site is just a symptom of bigger problems.

Similar to my colleagues, I wish to share the problems Iowans have with the Affordable Care Act. So I come to the floor today to share just one of hundreds of emails, letters, and phone calls from my constituents in Iowa expressing sticker shock about the Affordable Care Act.

A working mother in Decorah, IA, who lost her employer-sponsored coverage for her family because of rising costs, wrote to me and said the following:

. . . comparable plans do not seem to exist on the healthcare exchange. The closest we can come (and still see our own doctors) cost almost \$1050 per month. This represents a 247% increase in cost over our prior employer provided plan—and with much higher deductibles!

My husband is a self-employed small business owner. We covered our family of 4 on my group health plan, which includes a 21 year old adult daughter in college, who is not a legal tax dependent. If we receive any 'subsidy', it will be insignificant in relation to the total jump in our out of pocket costs related to the so called "Affordable Care Act".

The general public seems to believe that anyone who does not qualify for premium subsidies can easily afford a premium increase—no matter how outrageous. Yet an increase of almost 250% in our personal cost of providing an inferior policy for our family—which represents an increase in costs of roughly 20% of our gross income—can only be described as an absolute disaster.

I think this email from a real person who is really living this train wreck of a health care law speaks for itself.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. MORAN. Mr. President, part of our job as Members of the U.S. Senate is to help people who have problems. This has been a very difficult time for many Americans and difficult for me as somebody who wants to be able to help people with a problem.

As my colleagues have indicated, the letters, the phone calls, the conversations, the emails continue to come. The one I wish to highlight to my colleagues is from a person who describes herself as a 62-year-old female retired teacher from Wichita. She says she considers herself a middle-class American.

She indicates in her letter that her current health policy expires at the end of this year, less than a month away. Here is what she says in her letter:

When I inquired why, I was told the policy no longer meets the guidelines under ObamaCare.

Yet, in the previous 2 years, my premiums have increased 25% and 28% respectively to which the answer from [my insurer] was that it was to help pay for ObamaCare.

Now I can't even have that plan any longer.

It had a \$500 deductible and \$1,500 Max out of pocket expense per year, with a \$300 premium per month.

After over 20 hours online, and multiple calls and online chats, I finally was able to see some numbers for healthcare costs from the Obamacare Marketplace, only to learn that the premium is 1.5 times what I currently pay, and the deductible is 4.5 times higher (and it's a different insurer).

A plan [from my current insurer] was double the premium.

I will not qualify for tax credits, as my projected income for 2014, which includes some tax free interest income and social security, places this middle class retired American, over the threshold of any kind of subsidy.

I'm sad that my well laid plan for retirement, now will redirect my earnings to pay for healthcare, much of which I will never use.

At 62 and having had a hysterectomy, prenatal care is NOT an issue I will face, nor will I ever need female reproductive disorder treatment, as those parts are gone, but I will have no discount for not needing those coverages.

So I'm paying a higher premium for other women to have them?

I'm very frustrated at these changes.

It's the middle class that will be hit the worst by this mandate, and I fear that many will opt for the government fine because now they truly won't be able to afford the cost of healthcare.

One more question, how will folks who can't even make the premium payment, ever be able to pay the outrageous deductible?

Honestly, \$6,500 out of pocket expenses per person per year?

That's crazy, who will be able to pay that? And then who will end up paying it? This is NOT a solution for the Middle Class Americans!

Surely we can develop a policy, a program of caring for Americans without doing damage to people who already had insurance.

I yield the floor.

Mr. FLAKE. Mr. President, I am pleased to take the floor today and join my colleagues in opening the mailbag. All of us have received a lot of mail and email and faxes and texts from individuals who are being harmed by this law.

For example, Steve from Peoria, AZ, is looking at the premium for his policy through his employer going up in response to ObamaCare nearly 20 percent. In addition, his employers have told him to brace for more impacts like rising prices—all customers are going to get this—and falling salaries for new hires as well.

Leanne from Eager, AZ, is facing what she calls "sky high" rates now thanks to ObamaCare. If this is not bad enough, it looks as if she and her husband will have to put off buying their parents out of their family business. It looks likely that Leanne's parents are going to have to keep working for a while.

Cristian from Flagstaff, a young husband and father who has a young boy, says he might see his premiums actually decrease marginally. However, thanks to ObamaCare and thanks to changes his employer is making in response to ObamaCare, he is looking at higher copays, higher deductibles, and a decrease in the level of coverage. He is looking at "a large increase in my

responsible portion of my medical bills.”

ObamaCare is far from ideal for those in the workplace, those looking to retire, and for new families.

With story after story like these, we clearly see that the Affordable Care Act is a misnomer.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

Mrs. FISCHER. Mr. President, I rise today to speak on behalf of nearly 7,000 Nebraskans who have contacted my office with concerns about ObamaCare. The sticker shock has hit Nebraskans hard.

A woman from Palmyra writes:

This is the first time I have ever written my Senators. We just received our insurance letter telling us that they no longer would have our health insurance policy and the closest policy under the ACA would up our monthly premium from \$590.14 to \$932.24 for our family of 6. How is this affordable?

A constituent from Holdrege writes:

I cannot believe the letter I got from Blue Cross today. It informs me that I have to switch my coverage, and my new selected plan will cost me \$1,116.74, per month. That's a \$571.58 per month increase than what I have now. That's almost double my mortgage payment.

Also, why am I forced to carry coverage that I don't need or want? At 58, my wife and I are not going to have any more kids. I don't believe I'm going to qualify for any government subsidies. Our planned budget includes our current health care policy. There is no way we can afford the suggested new policies.

This law is anything but affordable.

I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, I join my colleagues as one who has received tweets and hits on the Web site, emails, phone calls ringing the phone off the hook, written letters, responses that I hear as I talk to people back in Indiana. These are not Republicans, Democrats, liberals, conservatives; they are all of the above. They are not writing to say: Stand with the Republican Party. Stand with this. Stand with that. They are writing to say: Wait a minute. The President promised that we would not have an increase in our premiums. He promised that if we liked our doctor, we could keep our doctor. He promised this would be affordable.

Tell that to Deborah from Logansport, who said that her increases in premiums will strain an already strained budget. I think she speaks for millions of Americans, tens of millions of Americans—a lot of Hoosiers, that is for sure.

Doug, a small business owner from Bloomington, told me that he expects his company health insurance to increase over 30 percent next year and, he said, “this will preclude me from providing wage raises to our employees and will make hiring additional employees much less attractive, if not impossible.”

The President promised a lot. The worst thing you can do to your con-

stituents, the people you represent, the people who put their trust in you, is overpromise and underperform. This could be the biggest gap between overpromising and underperforming of anything any President has said in the history of the United States. And he punctuated his statements with “period,” meaning “take it to the bank. Count on it. Trust me. Your premiums won't increase.” It is sad.

It is sad, but it can be corrected. We can work. We can repeal this now. We can work together on a bipartisan basis. We can fashion a reasonable, affordable solution to providing Americans who are uninsured with insurance, creating the kinds of products through an open market system, a competitive system that will deal with this problem. We do not have to keep swallowing this so-called Affordable Care Act. It simply will not go down.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. JOHNSON of Wisconsin. Mr. President, last night I read a number of emails we received of the hundreds we received from constituents in Wisconsin specifically talking about the problems they have had in losing their coverage and certainly finding this law not being affordable.

They use words like “scared,” “begging for help,” feeling they were just collateral damage in this scheme that simply is not protecting patients or offering affordable care. They cannot fathom that this is actually happening to them because they knew it was not supposed to.

Today I rise to read an email received from Steve Walrath from Beloit. Steve writes: I am 54 years old, in good health and no prior conditions. I just received my health insurance renewal bill. I used to have affordable and user-friendly health care that cost about \$290 a month with no copay. According to my renewal letter from Dean health care, my choices are now \$854 a month with a 10-percent copay, up to \$1,315 a month with a zero-percent copay.

Let me put that in perspective. He was paying \$290 a month with no copay, so if he wants a similar plan he will now experience a 440-percent increase, up to \$1,315. If he wants to pay a 10-percent copay, it will be a 285-percent increase. This was not supposed to happen. This is not what President Obama promised the American people, the citizens of Wisconsin.

Steve goes on to write:

Where is the promise of reduced insurance rates under the Affordable Care Act? What choices do you want me to make after January 1? Dental care or health insurance? An occasional night out or health care? Helping my kids get settled into home ownership or health care? What choice do you want me to make? This increase of over 300 percent is a betrayal of the laws you passed and promises you made. “Can't be denied coverage” doesn't mean we can afford it. Not when it's more than my mortgage payment. Which of the above choices do you want me to make after January 1?

That is just the sad fact. The Patient Protection and Affordable Care Act is

not protecting patients, it is not providing affordable care, and it is not about choice. It is about coercion, and I am asking the President of the United States and I am asking our Democratic colleagues here in the Senate and the House to work with Republicans to start limiting the damage, to start repairing the harm that is being caused to citizens of Wisconsin and America.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. LEE. Mr. President, in Utah I have a program that I call the Mobile Office. It is a way for many of my constituents, many of whom live some distance from my two offices in the State, to meet with members of my staff in order to discuss various concerns they have with the Federal Government, concerns that arise from their interaction with any of various Federal programs and agencies. It allows us to help these constituents, and it provides vital information that I can use to better represent them back here in Washington.

At one meeting in Davis County, a man attended who wanted to tell us about his experience with ObamaCare. He owns two small food stores and a 7-Eleven. He is also an immigrant, having come to the United States just 12 years ago to seek a better life for himself and for his family. He gives back to his community. He contributes to his economy and provides jobs for people who live in his town. Now ObamaCare is threatening all of that. His insurance premiums for his family are going to be rising by \$200 a month. This cost will destabilize his personal finances and may well force him to make cutbacks or to let some of his employees go.

These are the real human costs of ObamaCare. It is not what the President promised, and it is turning out to be an absolute, unmitigated disaster for families all across this country. It is time to start over and develop a health care system that works for everyone.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. ISAKSON. Mr. President, the Affordable Care Act promised accessibility, affordability, and choice. As we heard from the stories told here tonight, it delivered on none of the above.

I join Senator LEE, Senator JOHNSON, and the others to call on Congress to come together. Let's fix this flawed program before it is too late and before we destroy health care in the United States of America.

I get constant communication from my State about the problems that are there. This one that I want to read from Beth Hatfield demonstrates the fear, confusion, and lack of accessibility the health care plan has at this time.

I have tried many times over the past few weeks to purchase a health insurance plan



for myself on the healthcare Web site. I finally was able to complete an application, but have not been able to choose a plan yet. Twice I asked questions on the “live chat” option, but they were not able to answer my questions, instead they [told me to make a long distance call to the help desk. I did, but I couldn’t get an answer there either]. I was disappointed to find out that in order to “compare plans” you first needed to enroll. In what other shopping experience do you have to sign up before you actually shop?

Now I saw on the news that my personal information may be compromised from the Web site. This makes me angry, especially since it seems they knew all along [this problem existed].

Is anyone going to be able to do anything about protecting my information? I need health insurance. I am not working and my COBRA policy is expensive [and runs out soon].

I need someone to help me, and I need them to help me now.

Thank you for the opportunity to be heard.

I yield.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. BARRASSO. Mr. President, I just found out PolitiFact, which is a group who takes a look at what politicians say each year, just came out with what they are describing as the “Lie of the Year.” PolitiFact, “Lie of the Year.” It is none other than that of President Barack Obama, “If you like your health care plan, you can keep it,” called by PolitiFact the “Lie of the Year.”

It is not surprising that those of us from around the country are getting letters, emails, and calls from folks at home who are finding out they cannot keep it. They listened to the President, they believed the President, who has now had his statement listed as being the “Lie of the Year.”

I have a letter from Cody, WY, from a man who said:

Just got a quote from my insurance agent on a Obama care insurance. From \$860 that I currently spend per month for my family of 4, to \$2,400 per month.

He said:

All with the low deductible of \$10,000 per person per year. I’m not sure what planet they think I live on, but there is no way I can spend more than ½ of my monthly income on insurance. For the first time in my adult life I will soon be without insurance. What does it matter if my two 18-year-old children can stay on an insurance plan if I can’t afford to keep one? Also, all the airtime to preexisting conditions is meaningless if I can’t afford to keep a plan.

I feel greatly blessed to have the good paying job that I have. It puts me above the pay level that would allow me to get any subsidies. By the way, with the system in place this year I wouldn’t have needed subsidies.

Because he was paying something he could afford.

I have never needed them in the past and would like to continue to never get a hand out from my government.

This is what I expect to hear from the people of Wyoming—not looking for a handout from the government and able to take care of themselves. They are rugged individuals.

What this constituent has gotten from a Presidential promise turns out

to be the lie of the year. He sees an increase in his health insurance from \$860 a month to over \$2,000 a month.

He said:

I employ 35 people with my company. When we first opened about a year and ½ ago we were talking about getting some sort of coverage. It became very clear that we will not be able to do this, and have stopped any of our plans to provide this in the future. We also know for sure that we can not afford to ever employ more than 50 people, so as we continue to grow, there is an upward limit on how many people we will hire.

Here is an individual who has a business and has hired 35 people. He is not going to provide insurance because the costs are too high. He says that he is never going to have more than 50 employees. The opportunities may be there—wanting to put people back to work—but, no, there is a cap at 50. Why? Because of the health care law that has been forced down the throats of the American people. It was voted along party lines by Democrats in the House and in the Senate. So here we are, hurting the economy and hurting people’s health.

He goes on:

Simple economics, Obamacare is a job killer in Wyoming.

ObamaCare is a job killer not just in Wyoming but all across the country.

He said:

It has never been easy to be in business, that is part of the fun of being successful. It is discouraging when our federal government limits the American dream for everyone.

I am thankful for your efforts, but from my chair in Cody, it is already too late.

A failed Web site is just the tip of the iceberg. Web sites can be fixed, but what can’t be fixed is the destruction this health care law is doing to the health of America in terms of canceled policies. We now have over 5 million policies that have been canceled across the country. Five million people have letters saying: We are sorry, but your policy is canceled. Why? Maybe they didn’t have the type of insurance the President deemed good enough for them.

I received a letter from a lady who lives in Newcastle, WY. She is a rancher. I talked to her at our Farm Bureau meeting in Wyoming. She said: I lost my insurance because the President didn’t deem my policy good enough because it didn’t include maternity coverage. She knows me and knows I am a doctor. She said: Doc, I had a hysterectomy; I don’t need maternity coverage. She knows whether she needs maternity coverage. The President of the United States doesn’t have a clue. Yet he is the one who determines what kind of coverage she needs because it is the President who decided that he will be the one who will decide what the American people need, not them. She knew what worked for her and her family and what they could afford as far as a deductible.

There are people across my State who have absolute levels of anger and anxiety, and it is reflected in the letters I continue to get.

The front page of yesterday’s Wall Street Journal talked about the amount of deductibles. The deductibles in the bronze policy are the cheapest and average over \$5,000 per person. A husband and wife will have a \$10,000 deductible before they even get to the insurance. Yet they have to buy expensive insurance with these huge deductibles in order to comply with the individual mandate the Democrats have forced on the American people, that you have to buy it whether you call it a fee, a fine, or a charge. Call it what you will—a tax.

So we have the fact that the costs are too high and, of course, the deductibles.

I am going to continue to come back. I will be back later this evening with more letters, but I appreciate your attention.

Mr. LEAHY. Mr. President, I commend the Senate for confirming Judge Patricia M. Wald to be a member of the Privacy and Civil Liberties Oversight Board, “PCLOB”. The Senate previously confirmed Judge Wald to this post on August 2, 2012. The President renominated Judge Wald to this position in March, and the Judiciary Committee favorably reported the nomination without objection months ago. Like many other nominees, her confirmation has been held up on the floor for months by Senate Republicans.

During her tenure on this important oversight board, Judge Wald has served with great professionalism and dedication. And last month, she received the Presidential Medal of Freedom, the highest civilian honor that the President can bestow.

For the past several months, our Nation has been engaged in a national debate about the ever-growing need for limits on the government’s surveillance powers. The House and the Senate are considering bipartisan legislation to rein in those expansive powers, in an effort to better protect Americans’ privacy and to increase transparency and oversight. The PCLOB is also expected to issue an important report on the government’s surveillance programs to the President and Congress.

Today’s confirmation vote will ensure that the Privacy and Civil Liberties Oversight Board remains at full strength as the board continues this work to safeguard our constitutional rights. Democrats, Independents, and Republicans alike have supported the work of this non-partisan board. I commend the Senate for confirming this well qualified nominee, so that the PCLOB can continue to carry out its important responsibilities.

The PRESIDING OFFICER. All postcloture time has expired.

The question is, Will the Senate advise and consent to the nomination of Patricia M. Wald, of the District of Columbia, to be a Member of the Privacy and Civil Liberties Oversight Board for a term expiring January 29, 2019?

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Oklahoma (Mr. INHOFE) and the Senator from Illinois (Mr. KIRK).

The result was announced—yeas 57, nays 41, as follows:

[Rollcall Vote No. 264 Ex.]

#### YEAS—57

Baldwin	Hagan	Murphy
Baucus	Harkin	Murray
Begich	Heinrich	Nelson
Bennet	Heitkamp	Pryor
Blumenthal	Hirono	Reed
Booker	Johnson (SD)	Reid
Boxer	Kaine	Rockefeller
Brown	King	Sanders
Cantwell	Klobuchar	Schatz
Cardin	Landrieu	Schumer
Carper	Leahy	Shaheen
Casey	Levin	Stabenow
Collins	Manchin	Tester
Coons	Markey	Udall (CO)
Donnelly	McCaskill	Udall (NM)
Durbin	Menendez	Warner
Feinstein	Merkley	Warren
Franken	Mikulski	Whitehouse
Gillibrand	Murkowski	Wyden

#### NAYS—41

Alexander	Enzi	Moran
Ayotte	Fischer	Paul
Barrasso	Flake	Portman
Blunt	Graham	Risch
Boozman	Grassley	Roberts
Burr	Hatch	Rubio
Chambliss	Heller	Scott
Coats	Hoeven	Sessions
Coburn	Isakson	Shelby
Cochran	Johanns	Thune
Corker	Johnson (WI)	Toomey
Cornyn	Lee	Vitter
Crapo	McCain	Wicker
Cruz	McConnell	

#### NOT VOTING—2

Inhofe Kirk

The nomination was confirmed.

#### CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The bill clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of Brian Morris, of Montana, to be United States District Judge for the District of Montana.

Harry Reid, Sherrod Brown, Richard J. Durbin, Christopher Murphy, Robert Menendez, Christopher A. Coons, Angus S. King, Jr., Martin Heinrich, Amy Klobuchar, Dianne Feinstein, Tom Udall, Kirsten E. Gillibrand, Michael F. Bennet, Bernard Sanders, Barbara Boxer, Brian Schatz, Robert P. Casey, Jr., Thomas R. Carper, Benjamin L. Cardin.

#### QUORUM CALL

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair now directs the clerk to call the roll to ascertain the presence of a quorum.

The bill clerk proceeded to call the roll and the following Senators entered

the Chamber and answered to their names:

[Quorum No. 9]

Alexander	Gillibrand	Murray
Ayotte	Graham	Nelson
Baldwin	Grassley	Paul
Baucus	Hagan	Portman
Begich	Harkin	Pryor
Bennet	Hatch	Reed
Blumenthal	Heinrich	Reid
Blunt	Heitkamp	Risch
Booker	Heller	Roberts
Boozman	Hirono	Rockefeller
Boxer	Hoeven	Rubio
Brown	Isakson	Sanders
Cantwell	Johanns	Schatz
Cardin	Johnson (SD)	Schumer
Casey	Johnson (WI)	Scott
Chambliss	Kaine	Sessions
Coats	King	Shaheen
Coburn	Klobuchar	Shelby
Cochran	Landrieu	Stabenow
Collins	Leahy	Tester
Coons	Lee	Thune
Corker	Levin	Toomey
Cornyn	Manchin	Udall (CO)
Crapo	Markey	Udall (NM)
Cruz	McCain	Vitter
	McCaskill	Warner
	McConnell	Warren
	Menendez	Whitehouse
	Merkley	Wicker
	Fischer	Wyden
	Murkowski	
	Murphy	

The PRESIDING OFFICER. A quorum is present.

The question is, Is it the sense of the Senate that debate on the nomination of Brian Morris, of Montana, to be United States District Judge for the District of Montana, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Mexico (Mr. HEINRICH) is necessarily absent.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Oklahoma (Mr. INHOFE) and the Senator from Illinois (Mr. KIRK).

The PRESIDING OFFICER (Mr. BEGICH). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 57, nays 40, as follows:

[Rollcall Vote No. 265 Ex.]

#### YEAS—57

Baldwin	Hagan	Murphy
Baucus	Harkin	Murray
Begich	Hatch	Nelson
Bennet	Heitkamp	Pryor
Blumenthal	Hirono	Reed
Booker	Johnson (SD)	Reid
Boxer	Kaine	Rockefeller
Brown	King	Sanders
Cantwell	Klobuchar	Schatz
Cardin	Landrieu	Schumer
Carper	Leahy	Shaheen
Casey	Levin	Stabenow
Collins	Manchin	Tester
Coons	Markey	Udall (CO)
Donnelly	McCaskill	Udall (NM)
Durbin	Menendez	Warner
Feinstein	Merkley	Warren
Franken	Mikulski	Whitehouse
Gillibrand	Murkowski	Wyden

#### NAYS—40

Alexander	Coburn	Flake
Ayotte	Cochran	Graham
Barrasso	Corker	Grassley
Blunt	Cornyn	Heller
Boozman	Crapo	Hoeven
Burr	Cruz	Isakson
Chambliss	Enzi	Johanns
Coats	Fischer	Johnson (WI)

Lee	Risch	Thune
McCain	Roberts	Toomey
McConnell	Rubio	Vitter
Moran	Scott	Wicker
Paul	Sessions	
Portman	Shelby	

#### NOT VOTING—3

Heinrich Inhofe Kirk

The PRESIDING OFFICER. On this vote the yeas are 57, the nays are 40. The motion is agreed to.

#### NOMINATION OF BRIAN MORRIS TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF MONTANA

The PRESIDING OFFICER. The clerk will report the nomination.

The bill clerk read the nomination of Brian Morris, of Montana, to be United States District Judge for the District of Montana.

The PRESIDING OFFICER. Pursuant to the provisions of S. Res. 15 of the 113th Congress, there will now be 2 hours of postcloture consideration of the nomination equally divided in the usual form.

The majority leader.

Mr. REID. Mr. President, it is my understanding there is 2 hours equally divided; is that right?

The PRESIDING OFFICER. The leader is correct.

Mr. REID. I yield back 59 minutes.

The PRESIDING OFFICER. The time is yielded back.

The Senator from Florida.

#### SPACE LAUNCH LIABILITY INDEMNIFICATION EXTENSION ACT

Mr. NELSON. Mr. President, as in legislative session, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3547, which is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The bill clerk read as follows:

A bill (H.R. 3547) to extend the application of certain space launch liability provisions through 2014.

There being no objection, the Senate proceeded to consider the bill.

Mr. NELSON. Mr. President, today, I am asking for unanimous consent to pass H.R. 3547, as amended, a bill to extend government liability, subject to appropriation, for certain third-party claims arising from commercial space launches. The bill supports the competitiveness of the United States commercial space industry.

This industry, which grew in part out of the successes of NASA, is vital both to the economy and to national security. Our U.S. space companies offer us new opportunities to send astronauts into space on U.S.-built vehicles and to continue launching communications satellites and conducting important scientific research on the International Space Station.

This bill helps to ensure the strength of the space industry by continuing to provide Federal launch liability protection from third-party losses for commercial launches. Congress first established this indemnification regime in

1988 and has seen the need to extend the policy many times since then. It is important to note that it has never cost the United States a single dime.

This indemnification helps domestic launch companies compete in the global launch market. Many international competitors enjoy similar protections in their various home nations.

However, indemnification protection is set to expire on December 31st of this year. Without indemnification, each company would “bet the company” every time they launch.

As chairman of the Science and Space Subcommittee, I have worked with other Senators to thoroughly consider this issue. In a hearing this May, we discussed indemnification in detail. It was clear that extending indemnification was necessary.

This bill therefore extends the indemnification for 3 years, until 2016, giving Congress the ability to continue to review this policy while providing the commercial space industry the stability it needs.

I would like to especially thank Senator Thune and his committee staff for their work on this bill. I would also like to thank Senators CRUZ, FEINSTEIN, HEINRICH, KAINE, RUBIO, THUNE, MARK UDALL, TOM UDALL, WARNER, and WICKER, all of whom worked with me on this effort.

Mr. NELSON. Mr. President, I ask unanimous consent that the Nelson amendment which is at the desk be agreed to; the bill, as amended, be read a third time, the title amendment be agreed to, and the motion to reconsider be considered made and laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2544) was agreed to, as follows:

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

#### **SECTION 1. LAUNCH LIABILITY EXTENSION.**

Section 50915(f) of title 51, United States Code, is amended by striking “December 31, 2013” and inserting “December 31, 2016”.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The bill (H.R. 3547), as amended, was passed.

The amendment (No. 2545) was agreed to, as follows:

(Purpose: To amend the title)

Amend the title so as to read: “A bill to extend Government liability, subject to appropriation, for certain third-party claims arising from commercial space launches.”.

Mr. NELSON. Mr. President, what we have just passed is the indemnification bill on commercial space launches.

The PRESIDING OFFICER. The Senator’s time has expired.

Mr. NELSON. I thank the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. HOEVEN. Mr. President, I and my colleagues stand here holding the

floor in defense of fair and free debate, and the longstanding traditions of the Senate that promote consensus.

We are here working on nominations because the majority leader has determined that is the agenda for today. But there are important issues we need to move to: the Defense reauthorization bill, the Water Resources Development Act, the farm bill, the budget, and other vitally important legislation. We need to move to these bills and we need to deal with them in a bipartisan way. Instead, we continue to work on nominees. We are working on nominees without the discussion and the debate and the consideration and, most importantly, without that bipartisan consensus which has always been a hallmark of the Senate. Because of the unilateral change to the longstanding rules of the Senate, that consensus is no longer required for advice and consent; a simple partisan majority will do.

I would use time today to talk about need for bipartisanship, bipartisanship in nominations, but also bipartisanship in the important legislation that we need to address for the good of our country, legislation such as the right kind of health care reform. I have provided real-life stories from citizens from my State about the impact that the Affordable Care Act, ObamaCare, is having on them and their lives and why we need to replace it with market-based reforms, a step-by-step comprehensive approach that fosters choice and competition. We have put forward proposals to do that.

I have also used time today to talk about other important issues that we need to advance on a bipartisan basis; for example, the farm bill. We need a 5-year farm bill. We are currently operating under an extension. That extension expires at the end of the year. We need to get a farm bill in place, and a farm bill is a great example of how we do things on a bipartisan basis, not only in the Senate but also in the House.

I wish to talk about another subject that is vitally important to our country, to our economy, to job creation, and to national security, that also needs to be advanced and needs to be advanced in a bipartisan way, and that is energy.

I want to provide a specific example; that is, the Keystone XL Pipeline. I know the Presiding Officer wishes to see that project approved. That is the point. This is a project that will create jobs, create economic activity, it will create greater energy security, it is something that we can work on with our closest friend and ally in the world, Canada. It is something that goes to national security so we are no longer dependent on the Middle East for oil, and it is something that is supported on a bipartisan basis and there is strong support from the American people.

The polls show somewhere between 70 and 80 percent of the American public

supports this project and wants to see it move forward.

It has now been more than 5 years since the permit applications were submitted to the State Department for the Keystone XL Pipeline project—more than 5 years in the application process and still no decision—an exhaustive review process, including five environmental impact statements, showing no significant impact to the environment. The most recently issued draft statement was only last spring. The consent of every single State along the route of the pipeline is in place. Every single State on the route supports and approves the project, with the backing of a majority of Congress. Legislation to approve the project has passed in the House and we have passed it in the Senate only to have the President turn it aside.

As I said a only minute ago, it has the support of the American people. More than 70 percent—in the most recent poll—of the American people support moving forward with this project. Despite all of this support, the Keystone XL Pipeline project is still awaiting decision from the President of the United States.

The long wait for approval is troubling enough, but it represents a larger issue for our Nation and begs a bigger question for all of us who serve our States and the American people in this institution: How will America ever build an all-of-the-above energy policy if the President takes more than 5 years to approve only one piece of a comprehensive plan?

The Presiding Officer has seen this issue before in his State when it comes to the Alaska pipeline, how for years and years it was worked on until it was finally approved. Once approved, not only is it a vitally important piece of infrastructure for the State of Alaska, but contrary to all the concerns that were raised in regard to the Alaska pipeline, such as the environmental concerns, it has proven to work and work very well.

They addressed the concerns and the project was approved. The same is true for the Keystone XL Pipeline.

To recount briefly, this \$7 billion, 1,700-mile high-tech pipeline will carry oil not only from Alberta, Canada, to refineries in Oklahoma and the Texas Gulf Coast, but it will also carry growing quantities of sweet crude from the Bakken oil fields in North Dakota, my State, and also Montana—light, sweet, Bakken crude, the highest quality oil produced.

Even by modest estimates it will create more than 40,000 jobs. There have been a lot of estimates out there, some much higher. But the State Department itself, the administration’s own State Department has come out after more than 5 years of study and said that this project will create more than 40,000 jobs. At a time when unemployment is still 7 percent, these are good jobs, jobs that put Americans back to work.

It will create more than 40,000 jobs, boost the American economy, and raise much-needed revenues for States and the Federal Government. It is not raising revenues by raising taxes, it is raising revenues through economic growth. That is the way to do it—not higher taxes but through economic growth.

Further, and perhaps most importantly, it will help put our country within striking range of a long-sought goal, a vitally important goal for our country, true energy security. For the first time in generations, the United States—with its friend and ally Canada—will have the capacity to produce more energy than we use, truly, North American energy independence, eliminating our reliance on oil from the Middle East, Venezuela, and other volatile parts of the world. This is something Americans very much want.

When we see in the polls they support this project by more than 70 percent, it is with a clear recognition of what are we doing getting oil from the Middle East when we should be getting it from ourselves in this country and from our closest friend and ally Canada. We absolutely can do it, we can do it to an extent that is beyond our needs, and we can do it in short order, easily within the next 5 years if we approve projects such as this one.

Now we produce about 60 percent of our fuel domestically. We still import 40 percent, much of it from the Middle East, and other areas of the world that are hostile to our interests.

The question is why would we want to import oil from an unstable region of the world when we can import it and when we can work with our closest friend and ally Canada, as well as move it from parts of our country that produce that oil, such as my State and others, and transport it to our refineries.

The 40 percent that we don't produce domestically has to come from some place else. Why not from our closest friend and ally Canada. With a true all-of-the-above approach to energy development in this country, including projects such as the Keystone XL Pipeline project, I absolutely believe we can be energy independent within 5 years.

The argument has been advanced that the oil sands will increase carbon emissions and that failing to build the Keystone XL Pipeline will somehow reduce emissions.

Let us look at the facts. Let us look at this claim more closely. Today an ever increasing percentage of new recovery in the oil sands is being accomplished in situ. That means with technology that makes the oil sands carbon footprint comparable to conventional drilling.

In fact, the oil sands industry has reduced greenhouse gas emissions per barrel of oil produced by an average of 26 percent since 1990 and with some facilities achieving reductions as high as 50 percent—a 50-percent reduction in carbon emissions. Today heavy crude

from the Middle East—and even from California—produces more carbon emissions over its life cycle than the Canadian oil sands.

Also, we need to factor in that if the pipeline is not built from Alberta to the United States, a similar pipeline will be built to Canada's Pacific coast.

What does that mean? That means from there the oil will be shipped on tankers across the Pacific Ocean, a much larger and more sensitive ecosystem than the Sandhills—which, of course, have been at issue in terms of the route of the pipeline. It will be shipped across the ocean to be refined in facilities in China with weaker environmental standards and more emissions than our refineries in the United States.

The United States, moreover, will continue to import its oil from the Middle East, again on tankers so that again has to be transported across the ocean. Factor in the cost of trucking and rail the product to market overland, and the result, contrary to the claims of opponents, will be more emissions, more CO<sub>2</sub> emissions, and a less secure distribution system without the Keystone XL Pipeline than we will have if it is built.

In fact, the administration's own State Department has released three draft Environmental Impact Statements finding “no significant impacts” on the environment.

Let me read that again. In fact, the administration's own State Department has released three draft Environmental Impact Statements finding “no significant impacts” on the environment.

What does the administration do? They delay and ask for another Environmental Impact Statement.

What is going on?

In its latest analysis in March, the State Department concluded that “there would be no substantive change in global greenhouse gas emissions” associated with the Keystone XL Pipeline.

That raises another important point. The White House has said repeatedly they “don't want to get ahead of the process,” but the President effectively abandoned the process more than 2 years ago when he halted the project by executive action. Had he not, the State Department, in keeping with the usual process, would have issued a decision on the permit by December of 2011. That is according to a letter that was sent to me by Secretary Hillary Clinton, Secretary of State at that time, which she sent to me in August 2011.

I wish to point out that this body, the Senate, as well as the House of Representatives, has embraced the Keystone XL project with bipartisan majorities. Congress has expressed support for the Keystone XL with two majority votes in the Senate and several bipartisan letters to the President. The American people have also expressed overwhelming support for the project, as I have stated.

In a Harris poll released this summer, 82 percent of voting Americans voiced support for the Keystone XL Pipeline project. I want to emphasize that and say it again. In a Harris poll released this summer, 82 percent of voting Americans voiced support for the Keystone XL Pipeline project. According to Harris, 9 in 10 Republicans and nearly 80 percent of Democrats and independents believe the pipeline is in our national interest.

In July, Senator LANDRIEU and I led a bipartisan group of our colleagues to introduce a concurrent resolution declaring the Keystone XL Pipeline project in the national interest of the United States and calling on President Obama to approve it.

The resolution notes that every study conducted by the State Department, including the Department's draft Environmental Impact Statement issued in May, has found no significant impacts to the environment.

This is the text of S. Con. Res. 21.

Expressing the sense of Congress that construction of the Keystone XL Pipeline and the Federal approvals required for the construction of the Keystone XL Pipeline are in the national interest of the United States.

IN THE SENATE OF THE UNITED STATES

July 31, 2013

Ms. LANDRIEU (for herself, Mr. HOEVEN, Mr. PRYOR, Mr. DONNELLY, Mr. BEGICH, Ms. HEITKAMP, Mr. THUNE, Mr. RISCH, Mr. CORNYN, Mr. JOHANNIS and Mr. BARRASSO) [a bipartisan group] submitted the following concurrent resolution; which was referred to the Committee on Energy and Natural Resources.

#### CONCURRENT RESOLUTION

Expressing the sense of the Congress that construction of the Keystone XL Pipeline and the Federal approval required for the construction of the Keystone XL pipeline are in the national interest of the United States.

Whereas safe and responsible production, transportation, and use of oil and petroleum products provide the foundation of the energy economy of the United States, helping to secure and advance the economic prosperity, national security, and overall quality of life in the United States;

Whereas the Keystone XL pipeline would provide short- and long-term employment opportunities and related labor income benefits, such as government revenues associated with taxes;

Whereas the State of Nebraska has thoroughly reviewed and approved the proposed Keystone XL pipeline reroute, concluding that the concerns of Nebraskans have had a major influence on the pipeline reroute and that the reroute will have minimal environmental impacts;

Whereas the Department of State and other Federal agencies have conducted extensive studies and analysis over a long period of time on the technical, environmental, social, and economic impact of the proposed Keystone XL pipeline;

Whereas assessments by the Department of State found that the Keystone XL pipeline is “not likely to impact the amount of crude oil produced from the oil sands” and that “approval or denial of the proposed Project is unlikely to have a substantial impact on the rate of development in the oil sands”;

Whereas the Department of State found that the incremental life cycle greenhouse gas emissions associated with the Keystone XL project are estimated in the range of 0.07

to 0.83 million metric tons of carbon dioxide equivalents, with the upper end of this range representing 121,000 of 1 percent of the 6,702,000,000 metric tons of carbon dioxide emitted in the United States in 2011;

Whereas after extensive evaluation of potential impact to land and water resources along the 875-mile proposed route of the Keystone XL pipeline, the Department of State found, “The analyses of potential impacts associated with construction and normal operation of the proposed Project suggest that there would be no significant impacts to most resources along the proposed Project route (assuming Keystone complies with all laws and required conditions and measures).”;

Whereas the Department of State found that “[s]pills associated with the proposed Project that enter the environment are expected to be rare and relatively small” and that “there is no evidence of increased corrosion or other pipeline threat due to viscosity” of diluted bitumen oil that will be transported by the Keystone XL pipeline;

Whereas, the National Research Council convened a special expert panel to review the risk of transporting diluted bitumen by pipeline and issued a report in June 2013 to the Department of Transportation in which the National Research Council found that existing literature indicates that transportation of diluted bitumen proposes no increased risk of pipeline failure;

Whereas plans to incorporate 57 project-specific special conditions relating to the design, construction, and operations of the Keystone XL pipeline led the Department of State to find that the pipeline will have “a degree of safety over any other typically constructed domestic pipeline”; and

Whereas, the Department of State found that oil destined to be shipped through the pipeline from the oil sands region of Canada and oil shale deposits in the United States would otherwise move by other modes of transportation if the Keystone XL pipeline is not built: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) construction of the Keystone XL pipeline will promote sound investment in the infrastructure of the United States;

(2) construction of the Keystone XL pipeline will promote energy security in North America and will generate an increase in private sector jobs that will benefit both the regions surrounding the Keystone XL pipeline and the United States as a whole; and

(3) completion of the Keystone XL pipeline is in the national interest of the United States.

I have worked toward approval of the Keystone XL Pipeline—first as the Governor of North Dakota and now as a Senator—because I believe it is just the kind of project that will grow our economy and create the jobs our country so desperately needs, and it will do so with good environmental stewardship. At the same time, it will reduce our dependence on the Middle East for oil, which is what the American people have sought for decades.

The Keystone XL Pipeline project is long overdue. For the benefit of our economy, our environment, and our long-term energy security, this project needs to be approved and it needs to be approved without delay.

As I say, we can do these things. We can do these things and so much more, but it takes a bipartisan effort. It takes bipartisanship. We have to find a

way to tackle these tough issues for the benefit of the American people and we have to do it in a way that has always been the hallmark of this institution—the Senate—and that is on a bipartisan basis.

Earlier today I read accounts I received from citizens of my State who have been impacted adversely by ObamaCare. ObamaCare is an example of what I am talking about, an example of something that was passed on a partisan basis rather than on a bipartisan basis. So when we look across this great country, it is very understandable why the public support is not there. This was a policy passed solely with votes from one side of the aisle, in the House and in the Senate. We need to pass legislation in a bipartisan way. We need policies for this country, particularly on these big issues, that can garner bipartisan support if we expect the American people to truly support the policies as well.

I would like to read several more accounts, true stories, that I have received in my office from people from our State about the impact that ObamaCare is having on their lives. The first one comes from Crystal, ND. It is a frustrated senior, not eligible for Medicare, seeking ways to cut back to afford ObamaCare. This individual writes:

Just who is this health care reform law helping? My insurance broker, American Family, is no longer carrying medical insurance—so they lose. The average American that goes out and earns a paycheck—he loses. Doctors don't like it, so how many new doctors will there be? I just got off the phone with the insurance brokerage company that has taken over my former broker's customers. I learned that if I sign up before the end of the year, I can save by NOT having maternity coverage (what a laugh!). But, after 2014, I HAVE to have maternity coverage! Can you see all of us senior citizens walking around pregnant? So, with the cheapest coverage I WILL be paying \$473 MORE per month than my current coverage, and my premium will be \$1,288.00 per month! That's a 37% increase per month! Next year, the rate will increase to cover maternity. And, if you have children under 18, you HAVE to have dental, and maybe vision too. I already try to conserve on our monthly expenses, have heat set to 55—and when guests are here, I set it to 65. I turn lights off, don't smoke, don't drink (even quit drinking pop). I don't eat out, don't even go out to drive to get the mail every day, and don't buy new clothes, and don't go to visit family like I used to. What should I cut out of our monthly expenses? Take weekly showers? Get the mail once a week? Eat once a day? Hibernate? Get a third job? Cut out the grandkids' events? So, “affordable health care”. . . . I wonder how many heart attacks there will be after Americans open up their health insurance bill in 2014, and even more in 2015! Cause it will be a shocker.

Here is another story from an independent North Dakotan in Minnewaukan who suggests seceding from the Union over ObamaCare.

I would like you to know what the health care reform law is doing for my family. The insurance company we have had since 1994 is no longer going to offer health insurance, starting April 2014. When I called to get

quotes to replace my current health insurance policy, I learned I would have to pay \$200 more for a plan with a deductible that is twice the amount that I currently have. Then, when I eventually have to go on an ObamaCare policy, I will have to pay for maternity, which I haven't had for 17 years and have not needed. Plus, I will have to pay for children's dental and vision, which my family won't be able to use because my children are 18 and 20 years old. The health reform insurance policy will cost me twice as much as I am paying now. So, please tell me how this is going to help me! The only thing this is doing is giving another freebee to those who choose not to work. This is very frustrating, and I am starting to believe that seceding from this Union and making our country much better for the residents of North Dakota. We certainly have enough of our own resources to take care of ourselves. I hope you are trying to change the health care reform bill.

Here is one from a hardware store owner who is unable to grow his business due to ObamaCare.

I just received my renewal from Blue Cross Blue Shield for my 5 employees, and the premium for the same coverage went up from \$2,179.50 per month to \$3,090.40 per month. I am a small town hardware store owner. Where is this money to come from? I am so frustrated by the lack of understanding that our country's government officials have regarding the policies they create. It appears we all need to go on welfare [to survive]. Most people [who] work and generate the money are feeling hopeless. I don't think you have a clue as to the frustration that is out here. I was looking to expand and grow my business, but the drain I believe ObamaCare will have on the already strained economy will be much greater than in the Great Depression.

So, as a small business owner, why should I invest in the future? So our U.S. Government can continue its “business as usual?” I think not.

I present these stories and others I presented earlier in the day, along with those from my colleagues, because they are real stories from real Americans across the country who are suffering because of ObamaCare. We have put forward the kind of market-based solutions to replace ObamaCare that empower people—empower them to choose their own health care insurance and their own health care provider—and we need to go to work to provide the right kind of health care reform. We need to do that on a bipartisan basis.

I think that by presenting these stories, it is not just a case of Members of the Senate or Members of Congress saying: Hey, this is what I think is happening. These are real stories. These are people telling us what is happening to them in their lives and we need to take heed and we need to address the very real and very valid concerns they are raising and we can do it. We absolutely can do it.

I come back to where I started my comments after our last vote. We are here today voting on nominations. Due to the change in the Senate rules by the majority party, advise and consent no longer requires participation or any votes whatsoever from the minority party. That creates a situation now where judges, other nominees can be

approved solely by one party. We have seen what happens when one party and one party alone can confirm appointees or can pass laws such as ObamaCare. It doesn't work. It doesn't work for our country. That is why the Senate was set up to require bipartisanship, to require consensus so as we pass the important policies and laws that will help lift our country and move it forward, we have the broad base of support from both sides of the aisle across this great Nation. That is what is required to make things work.

That is why it is incumbent on all of us in this institution to reach out and find ways to make sure we have that bipartisanship so we create the kind of policies that will truly move our country forward. That is what the American people have sent us here to do.

I see my esteemed colleague from the great State of Utah is on the Senate floor and at this time I yield to him.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I have certainly enjoyed the remarks of the distinguished Senator from North Dakota. He has done a terrific job in the Senate and made a real difference, and I personally appreciate it very much.

We all know we are here for one basic reason: I believe our friends on the other side believe that by creating this kind of a fuss and problem, they can get off of the issue of ObamaCare, which is a disaster, and everybody knows it, including them.

The fact is that I think they have gone from one extreme debacle to another in their desecration of this body by getting rid of a rule that is absolutely critical to this body—a rule of protection to the minority.

I can hardly wait for those on the other side of the aisle, who have never been in the minority, to get in the minority and realize what they have done is basically destroyed the thing which has made the Senate the greatest deliberative body in the world.

The cloture rule—rule XXII—was put in place to allow the majority to end filibusters. In the early part of the last century they couldn't get anything done, so they came up with rule XXII so they could invoke cloture, end the debate, and get back to whatever the Senate decided was the appropriate business. It has worked amazingly well and it would continue to work amazingly well, except for the fact that our colleagues on the other side have made the Senate no better than the House of Representatives.

The Senate was always supposed to be different from the House of Representatives. It was supposed to be the body that would be more deliberative. It was Washington who said to Jefferson that the Senate is the saucer which cools the tea. They were right. The Senate is the saucer which should cool the tea. It should cool debates around here. But now it is just whatever the majority wants, and they vote in unison. They vote in unison because they

are supported in unison by a number of very well-heeled groups, especially including the unions, which Democrats are basically afraid of crossing. It is a pitiful shame.

I would like to chat just a little bit about this filibuster because it is a time-honored instrument which both sides have used. But I think there have been gross misrepresentations of what the filibuster is by the leadership of the other side, and these gross misrepresentations should never have been spoken on the floor. I don't know how they keep a straight face when they do it.

On November 21, 2013, the majority used a premeditative parliamentary gimmick to change more than two centuries of Senate confirmation practice. As a result, for the first time since 1806, the minority cannot extend debate on any nominations except for those that go to the Supreme Court. Democrats accomplished this on a purely party-line vote and by a maneuver designed to avoid scrutiny.

It would be hard to imagine a crisis so grave, a conflict so intractable that the only option was to fundamentally alter the very nature of this institution and further politicize the very confirmation process. I am here to say that the crisis the majority said could only be solved that way never existed.

The majority leader claimed on November 21 that this crisis was, as he put it, caused by "unprecedented obstruction" of nominations to both the judicial and the executive branches.

More specifically, he said there had been 163 filibusters of judicial and executive branch nominations, half of them during the Obama administration.

By the way, that is totally false and they know it. I don't know how they can stand on the floor and make these bald-faced assertions.

The only solution to the problem, the leader said, was simply to ban nomination filibusters.

I notice the majority leader made no attempt to either define the filibusters he was counting or to identify the nominations on his filibuster list. That was an odd omission because doing so would surely have proved his point. Wouldn't it? No.

There was a very good reason the majority leader simply threw out a big number and did identify the filibusters he claimed justified rigging the confirmation process. If he had simply listed those filibusters, we all would have seen dozens and dozens of nominations the Senate had confirmed, many without opposition at all.

Since I took my first oath of office on January 3, 1977, the Senate has confirmed more than 1,700 nominations to the U.S. district courts, the U.S. courts of appeal, and the U.S. Supreme Court, and they have defeated two—two—in all of that time the last 37 years. We confirmed 78 percent by unanimous consent without any rollcall vote at all. Two-thirds of the rollcall votes we did take were unanimous. Think about that. Where is the problem?

No President gets every single appointment he or she wants, but every President gets the vast majority.

During his first term, for example, President Obama was 30 percent behind his predecessor in nominations. They were sloppy in putting forth nominations. But he ended up only 10 percent behind in confirmations. That could only mean the Senate handled his judicial nominations efficiently.

During his second term, so far the Senate has confirmed more than twice—twice—as many judicial nominees as it had by this point in President Bush's second term.

The Congressional Research Service says the Senate is confirming President Obama's appeals court nominees faster than the Senate confirmed President Bush's. In fact, President Obama has already appointed one-quarter of the entire Federal judiciary.

I can also comment on how executive branch nominations referred to the Finance Committee have been handled. Nearly 80 percent of the nominations sent to the committee during the 112th Congress have so far been confirmed.

Looking at executive branch filibusters overall, the same Democratic leaders who last month voted to abolish nomination filibusters voted to filibuster President Bush's nominees to be Assistant Secretary of Defense and EPA Administrators and twice voted to filibuster his nominees to be a U.N. Ambassador.

They must have thought very differently back then about whether the President deserves his team. We have heard a lot about that from current Democrats. Their actions then spoke more loudly than their words do today about whether they think all nominees do deserve an up-or-down vote. Look at the past. Look at what they have done. It is hypocritical.

However, the majority will not acknowledge those facts and others like them because those facts do not fit the spin they are putting on this.

It is hard, after all, to claim an obstruction crisis when so many nominees are confirmed and are being confirmed. So the majority instead makes a claim about what they call filibusters because that sounds bad to most people, and most people will not know whether the claim is even true. Calling something a filibuster does not make it so.

A filibuster occurs when the Senate cannot vote on passage of legislation or confirmation of a nomination because an attempt to end debate on it fails. That is why filibuster reform always focuses on making it easier to end debate.

The filibuster rule XXII came about after the turn of the last century because they couldn't get anything done in the Senate and they needed a way of bringing things to cloture so they could vote. We are headed into the same kind of disaster without this important rule.

It takes two steps to detect a filibuster—a cloture motion and a cloture



vote. You can't have a filibuster without both. As we can see, a vast majority of what our leader has claimed are filibusters are not because they haven't had a cloture vote.

A cloture motion is a request to end debate and a cloture vote answers that request. A filibuster occurs when a cloture vote fails and debate cannot be ended. That is the definition of a filibuster.

Some people listening to this might already be wondering whether these details matter, whether the difference between a cloture motion and a cloture vote or the definition of a filibuster are all that important after all. I am here today to say these details do matter because the truth matters.

The truth matters when Senators claim there is a crisis that needs a solution when there isn't.

The truth matters when the majority prohibits the very tool they used so successfully in the past against Republican nominees.

The truth matters when the entire confirmation process is going to be rigged and the judiciary further politicized—such as the DC Circuit Court of Appeals.

I have been on the Judiciary Committee 37 years. I chaired that committee. I was ranking on that committee. I can tell you never in the history of that committee has it been so brazenly ignored.

The truth matters because the American people need to know what their Senators are doing.

The truth was in short supply on November 21. The majority leader claimed 168 filibusters, but he was not counting filibusters at all. The majority leader was counting cloture motions, not filibusters. He had the habit of calling up a bill and almost immediately filing cloture as though there was a filibuster, when nobody intended to filibuster. Then, in prior years, he would fill the parliamentary tree so in the greatest deliberative body in the world we could not have amendments. The minority could not have amendments.

There is a time to fill the tree, but it is only after there has been a full and fair debate and amendments have had their opportunity to be brought forward. They do it to cut off amendments—unless the majority leader approved of whatever the amendments were.

I think it is nice to protect your fellow Senators on the majority side with legitimate ways of doing it, but this isn't one of them. That alone is causing a lot of discontent on our side because the majority leader was counting cloture motions, not filibusters, and claiming they were filibusters when they weren't. He was counting requests to end debate, not the answers to those requests.

Most people probably do not know that the majority leader files nearly all cloture motions—as he did just a few days ago—by adding 10 more to the list. So if the majority leader claims

there are too many cloture motions filed on nominations, he has only himself to blame.

Under President Obama, half of the cloture motions filed on nominations do not result in a cloture vote at all. The rest just vanish into thin air, obviously, because they never should have been filed in the first place. Yet that is a scheme used by the other side, and then they claim this side is being obstructionists.

Two-thirds of the cloture votes that do occur on nominations pass. There has been no discussion of that by the other side. Two-thirds of them pass, preventing filibusters altogether.

Here is the filibuster fraud: The majority leader has been using the cloture rule more effectively than in the past—or should I say more obnoxiously than in the past—to prevent filibusters of President Obama's nominations while telling us about unprecedented obstruction. The truth is exactly the opposite of what he has claimed and what other Democrats on the other side of the aisle have claimed.

Perhaps the most astounding fact of all is that nearly 90 percent of Obama nominees to the executive or the judicial branch on whom cloture motions were filed have been confirmed. The majority told us that this was about obstruction, about how the minority was using the filibuster to prevent President Obama from appointing people. It is no wonder that the majority leader did not show the list of the nominations he claims have been filibustered. The claims are a fraud.

The majority created this crisis and damaged this institution by claiming that ending debate is really a filibuster and that confirming nominations is really obstructing them. Up is down, left is right, and confirmations are filibusters.

All of this is more than a little ironic since the Democrats were the ones who pioneered using the filibuster to defeat majority-supported judicial nominees. The first judicial nominee with clear majority support to be defeated by a filibuster was Miguel Estrada in 2003, one of the finest lawyers in the country. They didn't want him on the DC Circuit Court of Appeals because they knew getting on that court is a fast track to the U.S. Supreme Court. In fact, Democrats were so intent on keeping him off the DC Circuit that they filibustered Miguel Estrada, this Latino man, seven times—a record that stands to this day. I know. I was there. I was fighting for Miguel Estrada, as were all Republicans.

As of November 21, when the majority said there was an unprecedented filibuster crisis, there had been 12 cloture votes on Obama judicial nominations and 6 of them had failed. In other words, there was no obstruction. At that same point in the Bush administration, there had been 26 cloture votes on judicial nominations, and 20 of them had failed. Democrats used the filibuster to defeat Republican nominees

to the Fifth Circuit, the Sixth Circuit, and the Ninth Circuit.

Three-quarters of all votes for judicial nomination filibusters in American history have been cast by Democrats, and they have the gall to stand on this floor and suggest that Republicans are using the filibuster to stop nominees.

The majority leader alone—at least before complaining of too many filibusters—voted no less than 26 times to filibuster Republican judicial nominees. As I said, the same Democratic leaders abolishing nomination filibusters today voted to filibuster President Bush's nominees to be Assistant Secretary of Defense and EPA Administrator and twice voted to filibuster his nominee to be United Nations Ambassador. I do not know what the majority understands the word “unprecedented” to mean, but this certainly is not it. This is why the truth matters.

As of November 21, when the majority leader claimed that there had been 168 nominations filibusters, only 56 cloture votes on executive or judicial nominations had ever failed and only 17 of those filibustered nominees had not been confirmed. The crisis that the majority claimed turns out to be a myth, a tale for the fiction section of the library. This is why the truth matters.

Let's not forget what the majority did on November 21. Rule XXII, the one that provides a way to end debate, is a written rule, a time-honored rule. It says what it says, and it says that ending debate on any matter before the Senate, with the exception of rules changes, requires three-fifths of all Senators. It said that on November 21, and it says that today. The technical term for what the majority leader did that day was to raise a point of order, but in practical terms, the majority leader asked the Presiding Officer to say that three-fifths actually means a majority vote. He might just as well have asked the Presiding Officer to say that Christmas is on December 29 or that the Nation's Capital is in Salt Lake City, UT. The Presiding Officer stated the obvious, that three-fifths means three-fifths, because that is what the rule says. That is what the Presiding Officer, advised by the Parliamentarian of the Senate, said—three fifths means what it says: three-fifths. That is what the rule says.

By a purely party-line vote, the majority said otherwise—that three-fifths is actually a majority—by overruling their own colleague in the Chair. This sounds absurd because it is. Now we are forced to act as if we cannot read, to suspend the most basic ability to understand the English language and set aside our common sense. We are forced to pretend that the rules of this body say what they do not mean and mean what they do not say. This, frankly, reminds me of “The Wizard of Oz,” where Dorothy and her friends were before the image of what they thought was the great and powerful Oz. Her dog Toto pulls on the curtain to reveal a

little man frantically operating dials and buttons and speaking into a microphone. The image commands: "Pay no attention to that man behind the curtain."

On November 21 the majority told each of us to pay no attention to the three-fifths in the cloture rule. That was quite a trick. The real question was why the majority would concoct such a fraud in order to rig the confirmation process. What could be so important that the majority would go through such contortions, peddle such myths, and play such word games? It certainly was not to solve a filibuster crisis, that is for sure. No, it was for a much more base political reason.

The President and the majority here in the Senate deliberately set up this political confrontation in order to implement a political agenda that could not get through Congress. That agenda requires actions and decisions by the two groups of Federal officials who are not directly accountable to the American people: bureaucrats in the executive branch and judges in the judicial branch.

The President appoints those two categories of officials but only with the consent of the Senate. For more than 200 years the process of deciding whether to give that consent included the right of the minority to slow things down and, yes, even block the most controversial nominees.

I have given you the numbers. Only 17 executive or judicial nominees who were filibustered were not eventually confirmed. But the majority wants it all. They want a clear path to stacking the executive branch with officials who will issue the rules and stacking the judicial branch with judges who will approve those rules.

The DC Circuit Court of Appeals is a perfect illustration of where much of the regulations are evaluated by the courts, and they want them decided in favor of President Obama. They want the courts to legislate from the bench that which they could never get through the Senate or the House of Representatives. This is a power grab—nothing more, nothing less. It appears that the ends justified the means, that short-term political gains justified long-term institutional damage.

I urge my colleagues, from the freshmen to the senior Members, to take some guidance from our own predecessors. Senator Mike Mansfield, a leading Democrat, majority leader in the Senate, had served in the minority and later became majority leader. In 1975, when Senators also proposed forcing a rules change by simple majority, he said that this tactic would "destroy the very uniqueness of this body . . . and diminish the Senate as an institution of this Government." It would, he said, "alter the concept of the Senate so drastically that I cannot under any circumstances find any justification for it." That was the Democratic leader in the Senate, a man of unquestionable integrity.

As I have explained here today, the majority has certainly not provided any justification for doing away with the filibuster rule either. There is no filibuster crisis. I think I have made that case. There is only a desire by the majority to win every time, to have everything they want when and how they want it. Most of the executive and judicial branch nominations the majority claims were filibustered were actually confirmed. Even in this town, known famously for masterful spin, that will surely go down as legendary. The majority abolished nomination filibusters by claiming nominations that were confirmed were actually obstructed—when they were confirmed. This amounts to filibuster fraud. That is why we are here today, because the truth matters. The integrity of the Senate matters.

I can only hope there is time for those two concepts to still prevail. What the Democrats have done here is not only extremely dangerous, it is outrageous. They have taken one of the things that really make the Senate the great body that it is and have desecrated it. They have done it because a number of the Democrats over here have never been in the minority. They do not realize how awful that rule-change is. They do not realize that the filibuster is a rule of freedom that protects the minority and makes the Senate debate on these matters.

I once said I would fight to my death for the filibuster rule because it is what makes the Senate different from the House of Representatives. The House of Representatives is the people's body. They can do anything once they get a rule and get 50 percent plus one of the votes—anything. It was structured that way. The Senate was structured another way. Our young new Senators on the other side don't seem to understand that.

I have chatted with a number of more senior Senators who have been through being in the minority, who have been through some of the battles here. Let me tell you, they are as concerned as I am that this body is totally damaged by this breaking of the rules, destroying the rules for purely partisan purposes. They can talk about how they just want the Senate to work all they want to. The Senate is never going to work as well without this rule. The minority will never be protected as well without this rule.

I have to say that I hope we can get this rule put back in place. Even though it is a disadvantage to Republicans right now because they now have three more liberal judges on the DC Circuit Court of Appeals, which was divided four to four, Republicans appointees to Democrat appointees—four to four. Now they stack it, the most important court in the country as far as regulatory affairs are concerned and administrative law is concerned, so they can pass through that court the Obama administration's regulatory measures and desires without having to face real debate.

There was a reason why the Founding Fathers created the three separate governmental powers, because each of those powers is to protect our country. They are making it so that regulatory matters, administrative matters, and so forth there is really only one-sixth who are Republicans.

#### ORDER FOR CORRECTION

Mr. HATCH. Mr. President, there was an incorrect reference to the House bill number in a consent agreement earlier today with respect to the Fallen Firefighters Assistance Tax Clarification Act. I ask unanimous consent that the previous order be modified to reflect the correct House bill number—H.R. 3458.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HATCH. I yield the floor.

The PRESIDING OFFICER. All postcloture time has expired.

The question is, Will the Senate advise and consent to the nomination of Brian Morris, of Montana, to be United States District Judge for the District of Montana? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Mississippi (Mr. BLUNT), the Senator from South Carolina (Mr. GRAHAM), the Senator from Oklahoma (Mr. INHOFE), the Senator from Illinois (Mr. KIRK), and the Senator from Arizona (Mr. MCCAIN).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 75, nays 20, as follows:

[Rollcall Vote No. 266 Ex.]

#### YEAS—75

Ayotte	Gillibrand	Murkowski
Baldwin	Grassley	Murphy
Baucus	Hagan	Murray
Begich	Harkin	Nelson
Bennet	Hatch	Portman
Blumenthal	Heinrich	Pryor
Booker	Heitkamp	Reed
Boxer	Heller	Reid
Brown	Hirono	Rockefeller
Burr	Johnson (SD)	Rubio
Cantwell	Johnson (WI)	Sanders
Cardin	Kaine	Schatz
Carper	King	Schumer
Casey	Klobuchar	Shaheen
Coats	Landrieu	Stabenow
Coburn	Leahy	Tester
Cochran	Lee	Thune
Collins	Levin	Toomey
Coons	Manchin	Udall (CO)
Cruz	Markey	Udall (NM)
Donnelly	McCaskill	Warner
Durbin	Menendez	Warren
Feinstein	Merkley	Whitehouse
Flake	Mikulski	Wicker
Franken	Moran	Wyden

#### NAYS—20

Alexander	Enzi	Risch
Barrasso	Fischer	Roberts
Boozman	Hoeben	Scott
Chambliss	Isakson	Sessions
Corker	Johanns	Shelby
Cornyn	McConnell	Vitter
Crapo	Paul	

#### NOT VOTING—5

Blunt	Inhofe	McCain
Graham	Kirk	

The nomination was confirmed.

### CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of Susan P. Watters, of Montana, to be United States District Judge for the District of Montana.

Harry Reid, Sherrod Brown, Richard J. Durbin, Christopher Murphy, Robert Menendez, Christopher A. Coons, Angus S. King, Jr., Martin Heinrich, Amy Klobuchar, Dianne Feinstein, Tom Udall, Kirsten E. Gillibrand, Bernard Sanders, Barbara Boxer, Brian Schatz, Robert P. Casey, Jr., Thomas R. Carper, Benjamin L. Cardin, Michael F. Bennet.

### QUORUM CALL

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair now directs the clerk to call the roll to ascertain the presence of a quorum.

The assistant legislative clerk proceeded to call the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 10]

Alexander	Enzi	Mikulski
Baldwin	Feinstein	Murkowski
Barrasso	Franken	Murray
Begich	Gillibrand	Nelson
Blumenthal	Harkin	Portman
Blunt	Hatch	Pryor
Booker	Heller	Reed
Boxer	Hirono	Reid
Brown	Hoeven	Risch
Cantwell	Isakson	Rockefeller
Cardin	Johnson (SD)	Sanders
Carper	Johnson (WI)	Schumer
Casey	Kaine	Shaheen
Chambliss	King	Shelby
Coats	Klobuchar	Stabenow
Coburn	Landrieu	Thune
Cochran	Leahy	Toomey
Collins	Lee	Udall (CO)
Coons	Levin	Warner
Corker	Markey	Warren
Crapo	McConnell	Whitehouse
Cruz	Menendez	Wicker
Donnelly	Merkley	Wyden

The PRESIDING OFFICER. A quorum is present.

The question is, Is it the sense of the Senate that debate on the nomination of Susan P. Watters, of Montana, to be United States District Judge for the District of Montana, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

Mr. CORNYN. The following Senators are necessarily absent: the Senator from South Carolina (Mr. GRAHAM), the Senator from Oklahoma (Mr. INHOFE), and the Senator from Illinois (Mr. KIRK).

The yeas and nays resulted—yeas 58, nays 39, as follows:

[Rollcall Vote No. 267 Ex.]

YEAS—58

Baldwin	Harkin	Murray
Baucus	Hatch	Nelson
Begich	Heinrich	Pryor
Bennet	Heitkamp	Reed
Blumenthal	Hirono	Reid
Booker	Johnson (SD)	Rockefeller
Boxer	Kaine	Sanders
Brown	King	Schatz
Cantwell	Klobuchar	Schumer
Cardin	Landrieu	Shaheen
Carper	Leahy	Stabenow
Casey	Levin	Tester
Collins	Manchin	Udall (CO)
Coons	Markey	Udall (NM)
Donnelly	McCaskill	Warner
Durbin	Menendez	Warren
Feinstein	Merkley	Whitehouse
Franken	Mikulski	Wyden
Gillibrand	Murkowski	
Hagan	Murphy	

NAYS—39

Alexander	Cruz	Moran
Ayotte	Enzi	Paul
Barrasso	Fischer	Portman
Blunt	Flake	Risch
Boozman	Grassley	Roberts
Burr	Heller	Rubio
Chambliss	Hoeven	Scott
Coats	Isakson	Sessions
Coburn	Johanns	Shelby
Cochran	Johnson (WI)	Thune
Corker	Lee	Toomey
Cornyn	McCain	Vitter
Crapo	McConnell	Wicker

NOT VOTING—3

Graham Inhofe Kirk

The PRESIDING OFFICER. The motion is agreed to.

### NOMINATION OF SUSAN P. WATTERS TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF MONTANA

The PRESIDING OFFICER. The clerk will report the nomination.

The assistant legislative clerk read the nomination of Susan P. Watters, of Montana, to be United States District Judge for the District of Montana.

The PRESIDING OFFICER. Pursuant to the provisions of S. Con. Res. 15 of the 113th Congress, there will be now be up to 2 hours of postcloture consideration of the nomination equally divided in the usual form.

The majority leader.

Mr. REID. Mr. President, if I yield back 1 hour of the majority's time, what time would the next vote occur?

The PRESIDING OFFICER. At 9:15 p.m.

Mr. REID. I yield back 1 hour.

The PRESIDING OFFICER. The time is yielded back.

The Senator from Mississippi.

Mr. WICKER. Mr. President, we are now on Calendar No. 349, Susan P. Watters of Montana to be U.S. district judge for the District of Montana. I note on the Executive Calendar this nomination came before the Senate from the committee on September 19. It is my understanding that this nominee was cleared by our side of the aisle and could have been brought up on any Monday afternoon by a voice vote.

I think Members might be wondering and certainly people within the sound of my voice tonight might be wondering why we are spending time tonight in a protracted debate on three district court nominees—Landya B. McCafferty of New Hampshire, Brian

Morris or Montana, and now Susan Watters of Montana to be confirmed—when there has never been a district court judge in the history of our Republic prevented from serving because of a filibuster.

To me, we have gotten to this point because of the heavyhanded overreach of the majority in trampling on the rights of folks on our side of the aisle. We find ourselves—temporarily, I hope—in the minority. That has a way of changing from time to time. But it is the sort of overreach that I am reminded of from 2009 when a supermajority in both Houses rammed through ObamaCare and caused all of the grief that we currently are facing and that real, live Americans are having with the so-called Affordable Care Act.

It actually might be in one way beneficial that we are spending this time on something that could have been done so quickly because it gives us an opportunity to point out that we should be right now, at this moment, working on the National Defense Authorization Act and also on the budget—two matters that are pending that must be addressed by this Senate before we can go home and take a day or two with our constituents and loved ones for the Christmas holiday. But it gives me an opportunity, as the budget comes over tonight from the House of Representatives, to point out one of the most onerous provisions in the budget, which has just passed with sweeping bipartisan support in the House of Representatives.

I will stand before this body tonight and say that I cannot vote and will not vote for this budget, and I hope that even yet Members of the Congress and the American public will listen to the broken promise that is contained in this budget that will be coming forward. We will perhaps get back to the nomination in a moment.

We should note two things about this budget. It asks for an additional contribution for pensions for Federal employees, but it does not do it to current Federal employees. As you enter the Federal service after the beginning of the year, you pay an additional amount that is withheld from your paycheck for your pension. That is hard to do, it is distasteful to do, but at least it is fair to the people who join the Federal service under one set of rules.

On the other hand, the budget that comes over to us from the House of Representatives and that I will oppose when it eventually does come up for a vote hopefully next week does to retired servicemen what we were persuaded not to do to Federal employees: It breaks a promise to retired service people who have already served their time. This is what it does. It says to every retired servicemember under the age of 62: You are not going to get your COLA anymore. Each year until you get to be 62, you are going to get your COLA, less 1 percent. I can tell you

that this is not a matter of nickels and dimes to the people who have stepped forward, joined the military, volunteered for a career in the military, done their 20, and now are going to be told, if this budget passes next week: We are sorry. We are changing the rules way after the game has begun.

I ask unanimous consent to have printed in the RECORD a letter to me from VADM Norb Ryan, U.S. Navy, Retired, president of the Military Officers Association of America.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEAR SENATOR WICKER: On behalf of the over 380,000 members of the Military Officers Association of America (MOAA), I am writing to express our strong opposition to the proposal within the Bipartisan Budget Act of 2013 which penalizes future uniformed service retirees and current retirees under the age of 62.

Even though the budget deal would help ease the harmful effects of sequestration for two years for the Department of Defense—something we support—doing so on the backs of service members who serve our Nation for over 20 years is just shameful.

Reducing working age retiree annual cost-of-living adjustment by one percent until they reach the age of 62 is simply a tax.

Service members who retire at the 20 year point would feel the full negative financial effects of the proposal by reducing their retired pay by nearly 20 percent by the time they reach age 62.

For example, an Army Sergeant First Class (E-7) retiring this year with 20 years of service would see an average loss of over \$3,700 per year by the time he or she reaches age 62—a cumulative loss of nearly \$83,000. For a Lieutenant Colonel (O-5), the average annual loss would be over \$6,200—a cumulative loss of over \$124,000.

This proposal also flies in the face of the principles that guide the ongoing congressionally-mandated review of military compensation and retirement.

Congress wisely removed the BRAC-like, “fast-track” rule so that the appropriate committees would have adequate time to assess impacts that any recommended changes to the retirement system would have on retention and readiness.

In addition, the guiding principles to the Military Compensation and Retirement Modernization Commission (MCRMC) include a grandfather clause to protect current retirees and service members from any changes to their retirement which this proposal blatantly disregards.

Currently serving members look at how they, their families, retirees, and survivors have been treated when making career choices. If Congress arbitrarily cuts the retirement benefit for those who have served their country for over 20 years, there could be an unintended impact on uniformed service career retention, and ultimately, national security.

Sincerely,

VADM NORB RYAN, USN (Ret),

President,

Military Officers Association of America.

Mr. WICKER. Let me point out what the retired vice admiral says.

On behalf of the 380,000 members of the Military Officers Association of America, I am writing to express our strong opposition to the proposal within the Bipartisan Budget Act of 2013 which penalizes future uniformed service retirees and current retirees under the age of 62. Even though the budget deal

would help ease the harmful effects of sequestration for 2 years for the Department of Defense, something we support, doing so on the backs of servicemembers who served our Nation for over 20 years is just shameful.

I would interject at this point that I have to agree with that statement.

The vice admiral goes on to say:

Reducing working age retiree annual cost of living adjustment by 1 percent until they reach the age of 62 is simply a tax. Servicemembers who retire at the 20-year point would feel the full negative final effect of the proposal by reducing their retired pay by nearly 20 percent by the time they reach the age of 62.

This is the pertinent part of the letter I am having printed in the RECORD, and my colleagues should hear me on this:

For example, an Army sergeant first class, E-7 retiring this year with 20 years of service would see an average loss of over \$3,700 per year by the time he or she reaches age 62, a cumulative loss of nearly \$83,000.

That is what this bipartisan budget resolution does to the retired military enlisted people who have volunteered to serve our country for 20 years and who joined under one set of rules—\$83,000 lifetime taken from this retired E-7.

For a lieutenant colonel, O-5, the average annual loss would be over \$6,200 annually, a cumulative loss of over \$124,000.

Mr. CHAMBLISS. Would the Senator yield?

Mr. WICKER. I will yield on this, absolutely, to my friend.

Mr. CHAMBLISS. I know the Senator from Mississippi was on Active Duty in the Air Force for several years and has stayed in contact with many members of the military not just as a result of his service on the Armed Services Committee but because he is very keenly interested in the welfare of the men and women in our military.

If I am hearing the Senator from Mississippi correctly on this particular issue, what he is saying is that an E-7 who served in Iraq, served in Afghanistan, conceivably served multiple tours in Iraq and Afghanistan, maybe even was awarded major meritorious recognition, is now going to have the promise that was made to him about his retirement reduced retroactively. Do I understand that correctly?

Mr. WICKER. The rules, if this budget passes and is signed into law by President Obama, will be changed on this individual retroactively. The result will be that, instead of the retirement pay he signed up for and agreed to under the law when he did his duty, he will experience an \$83,000 loss, lifetime.

Mr. CHAMBLISS. Mr. President, again if I may inquire of the Senator, you, as I say, have been very close to any number of military personnel through the years you have served in this body as well as your service in the Mississippi Legislature. Just by virtue of the fact of practicing law in Tupelo, MS, what is the opinion of the Senator from Mississippi as to the morale influ-

ence a provision such as this is going to have on our men and women in the military, not just those who are retired but Active-Duty military today?

Mr. WICKER. I can only imagine that it is a severe blow to morale. Also, it has to make people who are willing to step forward and risk their lives, be separated for months and years from their loved ones, it has to make them wonder, what else is being promised to me that is going to be taken away?

Mr. CHAMBLISS. The Senator also mentioned the reduction in Federal retirement pay—and we have to figure out ways to save money. We all know and understand that. There is a change in the pension for Federal retirees, but it is all prospective going forward.

Mr. WICKER. Right. We do not do anything to any other Federal employee retroactively, only the military in this budget. I cannot imagine how the public could think that is fair.

Mr. CHAMBLISS. I am very sympathetic, even though I never served on Active-Duty in the military as you did. But this is very strange. It is very difficult to understand why we would penalize the men and women who have worn or do wear the uniform of the United States versus a very similar provision for the men and women who serve the Government of the United States in a very honorable way, but we are treating them very differently, it seems like almost discriminatorily.

Mr. WICKER. I will tell you who else believes it is discriminatory. I have a list of members of the military coalitions listed in a letter to the Honorable HARRY REID and the Honorable MITCH MCCONNELL dated December 11, 2013. I ask unanimous consent to have this letter printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE MILITARY COALITION

Alexandria, VA, December 11, 2013.

Hon. HARRY REID,  
Majority Leader, U.S. Senate, Washington, DC.

Hon. MITCH MCCONNELL,  
Minority Leader, U.S. Senate, Washington, DC.

DEAR MAJORITY AND MINORITY LEADERS: The Military Coalition (TMC), a consortium of uniformed services and veterans associations representing more than 5.5 million current and former servicemembers and their families and survivors, appreciates the Bipartisan Budget Act of 2013 which helps to ease the harmful effects of sequestration on the defense budget; however, we wish to express our grave concern and strong objection to the proposal within the Act that specifically seeks to penalize current and future military members who have served our nation for over twenty years.

The 1 percent annual reduction to uniformed service retired pay Cost of Living Adjustment (COLA) will have a devastating financial impact for those who retire at the 20 year point by reducing retired pay by nearly 20 percent at age 62.

While portrayed as a minor change, a 20 percent reduction in retired pay and survivor benefit values is a massive cut in military career benefits and an egregious breach of faith.

The Coalition believes that service in uniform is unlike any other occupation. Roughly one percent of the nation's population is

currently serving and shouldering 100 percent of the responsibility for our wartime and national security requirements. The benefits connected with this service have been earned through 20 or more years of arduous military service.

Ending the harmful effects of sequestration is a top priority for our nation's security and military readiness, but to tax the very men and women who have sacrificed and served more than others is simply a foul.

Congress mandated the Military Compensation and Retirement Modernization Commission (MCRMC) in the FY 2013 National Defense Authorization Act and wisely removed the "BRAClike", fast-tracking rule so that the appropriate committees would have adequate time to assess any recommendations that could significantly impact retention and readiness. Moreover, any changes that the MCRMC recommends will grandfather the existing force and retirees to keep promises that have been made by our nation's leadership.

This radical proposal basically kills the grandfather-concern addressed by both Congress and the Administration and actually eliminates the appropriate review process failing to consider longterm readiness and retention outcomes in order to meet an arbitrary deadline so that Congress can go home for the holidays.

The Secretary of Defense succinctly warned on July 31, "It is the responsibility of our nation's leadership to work together to replace the mindless and irresponsible policy of sequestration. It is unworthy of the service and sacrifice of our nation's men and women in uniform and their families."

The Military Coalition shares the Secretary's concerns.

Currently serving members look at how they, their families, retirees, and survivors are being treated when making career decisions. If Congress arbitrarily cuts the retirement benefit for those who have served their country for over 20 years, there could be a lasting adverse impact on uniformed service career retention, and ultimately, national security.

Sincerely,

THE MILITARY COALITION.

Mr. WICKER. I simply say, in answer to the distinguished Senator from Georgia, here are the groups who are expressing outrage, dismay, and strong opposition to this provision:

The Air Force Sergeants Association; Air Force Women Officers Associated; AMVETS; AMSUS; Association of the United States Navy; Chief Warrant Officer and Warrant Officer Association, U.S. Coast Guard; Commissioned Officers Association of the U.S. Public Health Service, Inc.; Enlisted Association of the National Guard of the United States; Fleet Reserve Association; Gold Star Wives; Iraq & Afghanistan Veterans of America; Jewish War Veterans of the United States of America; Marine Corps League; Marine Corps Reserve Association; Military Officers Association of America; Military Order of the Purple Heart; National Association for Uniformed Services; National Guard Association of the United States; National Military Family Association; Naval Enlisted Reserve Association; Society of Medical Consultants to the Armed Forces; the Military Chaplains Association of the United States of America; the Retired Enlisted Association; United States Army Warrant Officers Association; United

States Coast Guard Chief Petty Officers Association; Veterans of Foreign Wars of the United States; and Vietnam Veterans of America.

This distinguished list of organizations consisting of members and former members of the U.S. military have registered their opposition.

I can only hope at this point that Members of the Senate will listen. This is a so-called savings of \$6 billion out of an \$80 billion package.

Surely we could find \$6 billion without putting an \$80,000 penalty on the back of an E-7 retired enlisted person who is not rich, who served honorably under one set of rules and who has been now told sorry.

I have to say when people see the government not keeping its promises, I think it is destructive to our system of government. It is exactly the sort of thing we are seeing with ObamaCare. It is not being overly repetitive to remind my colleagues that the President of the United States, Barack Obama, repeatedly, over and over, promised the American people that they could keep their insurance.

For example, in a speech at the American Medical Association on June 15, 2009, President Obama stated:

That means that no matter how we reform health care, we will keep this promise to the American people: If you like your doctor, you will be able to keep your doctor, period. If you like your health care plan, you'll be able to keep your health care plan, period. No one will take it away, no matter what.

These are the words of the leader of the free world. Of course, we know from story after story of real people who are being hurt by this law that time after time after time again, in thousands of homes across the United States of America, that promise, just as the promise made to the servicemen, is being broken.

If the Senator from Georgia will indulge me, let me give one example of a family of real individuals, honest, hardworking Americans who feel that another promise is being broken in the form of the so-called affordable health care.

I received an email from a father in Greenville, MS, who is concerned about his 27-year-old son. For the past 6 years his son was covered under a policy provided by Humana. When the healthy 20-year-old first received coverage, the policy protected against a major medical emergency and the cost was only \$70 a month.

The President told the American public: "If you like your health care plan, you'll be able to keep your health care plan."

According to this father in Greenville, MS, this policy is no longer available, and the plan available for his son will now cost just under \$350 per month as opposed to \$70 a month—a broken promise. The healthy 27-year-old who works in the automotive industry has been working since he was 20. He now questions whether he can afford to insure himself at all because his cost has

quadrupled. His discretionary income will now taken a huge hit—as the discretionary income of these retired heroes will take a huge hit—and the higher premiums will cause uncertainty in his family.

I know my friend from Georgia may want to give some examples of some people in his home State. Once again, in this instance, a promise has been made, a very explicit promise. In a very blatant way that promise turned out not to be the case at all.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. I thank the Senator from Mississippi for giving me an opportunity to speak for a minute. I wish to get to some anecdotes, but first it has been nearly 4 years since the Democrats in the Senate and the House forced the passage of the President's signature law, the Affordable Care Act or what is commonly known as ObamaCare.

It is a title the President has embraced during the promising times and distanced himself from during the very difficult times we are going through now. It has been kind of an interesting dynamic to watch.

Instead of working in a bipartisan fashion to enact a health care law that would bring more competition into the private insurance market through market-based solutions, President Obama and the Democrats structured a deal behind closed doors across this hall that we are looking at on the west side of the Capitol. They structured that deal without any Republican input, giving the Federal Government more control over Americans' health care decisions.

The Senator from Mississippi and I were here on the floor, and we both fought tooth and nail to stop the passage of ObamaCare.

On Christmas Eve, 2009, we came to the floor of the Senate and voted against what I think is the worst piece of legislation that has passed in the Congress in the 19 years the Senator and I have been in Congress. I have been saying for years that ObamaCare caused more problems than it solved, and with the passage of every single day, that is being shown as the painful truth.

Although the White House has stood behind this terrible piece of legislation, some of my colleagues across the aisle have brought into question now the ability of it to stand on its own two feet.

Who can blame them. This has become a major political issue, not only expensive, but it is a political issue. The law continues to be marked by red flags. We have heard a few of the Democrats go as far to say even that it is a train wreck, and they are exactly right.

We have heard from the American people as well. They are rightfully upset that they have been repeatedly lied to and misled about this law by the President of the United States. The

American people don't deserve a law filled with broken promises marked by disaster after disaster. The law is fundamentally broken and Americans deserve better.

I noticed yesterday, in a hearing, the Secretary of HHS reported that nearly 365,000 individuals have selected plans from the State and Federal marketplaces, a number that is far below the administration's goal. I think their goal—and the Senator may correct me—is 7 million by the end of March.

I notice also that the State of Oregon has spent \$300 million setting up their exchange. As of this morning there were 40 people, 40 citizens of Oregon had signed up. The fact is that this law is not working. It is becoming more and more expensive every day. As we talked about in 2009, when we were debating this bill, it is going to be the largest mandatory expenditure that the U.S. taxpayer has ever seen.

The Senator is correct. I have a whole book of anecdotes and I wish to mention some.

First, Linda of Douglasville wrote to me about her dropped coverage. She said:

We lost our Gold plan. All of our costs will go up next year considerably. It is harder and harder for us to really retire!

My husband, who is 71, still has to work part time to pay for our rising costs.

Linda, from Hampton, GA, also writes:

In 1997 I retired from Motorola, Inc. after having a career there for almost 30 years. One of my benefits was a retiree secondary insurance plan, after Medicare, that provided coverage for medical and prescriptions; my monthly premium for that coverage was \$127.

Effective January 1, 2013 Motorola withdrew their insurance coverage for retirees.

Under ObamaCare they simply could not afford it. I could go on and on. I know the Senator from Mississippi has some other anecdotes that he would like to mention, and I will engage on some others on my side shortly.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. WICKER. I thank my colleague from Georgia. Let me mention a husband and wife in Hernando, MS. They are small businesspeople. As the Chair is aware, that is how we create jobs in the United States of America. We love it when a big manufacturing plant moves in, but it is the small businesses throughout this great land that create the bulk of the jobs, and we appreciate it.

ObamaCare has hit the small businesses so hard and hurt their ability to create jobs.

This particular small business couple in Hernando, MS, tell me their private insurance plan that they have offered their employees in the past will not be grandfathered and the new plan they are forced to offer their employees will have a 7-percent premium increase in 2014—that is real money—and a 66-percent premium increase in 2015, according to their insurance agent.

Perhaps they believed the President when he said: "If you like your health

care plan, you'll be able to keep your health care plan, period."

Perhaps they believed Members of the majority party, such as the distinguished majority leader from Nevada who said it not only means making sure you can keep your family's doctor or keep your health care plan if you like it but also that you can afford to do it.

Perhaps they believed that, but instead a 7-percent premium increase is hardly affordable at that and then a 66-percent premium increase, which is a blow. Their small group plan they offered to their eight employees currently costs \$491 per month per employee. By 2015 the plan will cost this small business couple over \$800 per month per employee.

These are real stories. These are real facts. It is going from \$491 per month per employee to \$800 per month per employee. I wonder how many jobs they will be adding to that small business. This plan doesn't include dental or vision.

They pride themselves, this small business couple, on providing their employees quality, affordable health care that they help supplement. But with the frequent changes the President is making to the law, they are uncertain whether they will be able to cover the enormous cost.

As small business owners, it is impossible for them to expand. They will not be able to hire additional employees with the uncertainty of the future.

Let me mention one other example and then perhaps Senator CHAMBLISS can have a moment to speak on some Georgians.

The next example is a family of four living in Corinth, MS, in the northeast corner of our State. They are full-time employed parents who currently do not have health care. They spent a month and a half trying to sign up for coverage for themselves and their two children. The least expensive plan they could eventually find after spending countless hours trying to navigate the Web site will cost them just under \$800. For a working family in Mississippi with two young children to care for, this cost is an almost impossible burden on this family of four.

It may be that the Senator from Georgia has examples similar to these.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. The American people want affordable health insurance. The title of the law even centers on the word "affordable." I am not sure how anybody could possibly argue that ObamaCare is affordable when the letters I am receiving from constituents over and over every single day, time and again, reference a significant increase in their total health care costs. Virtually 100 percent of the letters we are getting indicate that not only are the monthly premiums going up, but the deductible is going up, their copays are going up, and it is simply going to be more out-of-pocket expense than ei-

ther actively working individuals or retired individuals ever thought they would have to pay for health care.

Terra from Columbus writes to explain what is happening to her children.

I carry medical insurance for my two adult children because they cannot afford it on their own.

Let us remember, ObamaCare covers children up to 26 years of age.

Being one that has always had medical insurance and knowing the value of it if something bad happens, I have also made sure that they both had some type of coverage when they became adults. The sad part is I have gotten a letter on both and now their insurance will be canceled because I as their parent can no longer afford to pay it for them either. We received a letter which shows where their old policy covers everything and I mean everything, but because of ObamaCare's requirements to carry everything, a new policy will cost us twice as much each month. With me being unemployed and my husband the only one working we have no choice but to drop their coverage.

Wynell, from Roswell, GA, wrote:

My private coverage was superb. But now, my insurance premiums are going from \$319 a month to \$769 a month and not only that, my copay is increasing from \$5 to \$20 for my primary care visits and \$5 to \$50 for specialist visits. I will be responsible for \$500 per day out-of-pocket cost if I am hospitalized (before my hospital costs were included) and I will also have to pay for any tests (before all my tests were included). And apparently, subsidies do not apply to me.

Loretta, from Canton, GA, writes:

I received a letter from my insurance company dated September 25, 2013. I had until November 15 to choose to remain with my current coverage until December 2014. My rate increased by 16 percent. According to the letter, the Affordable Care Act premium will increase by 139 percent. My former plan did not include maternity. I'm 60 years old. I don't need maternity. My new plan will include maternity. My old plan was great for preventive care. I paid nothing for immunizations including tetanus and flu shots. I paid a \$30 copay for a doctor visit. My prescriptions have been very reasonable. The new plan requires a network of doctors and hospitals. The premiums were between 150 percent and 200 percent above what I'm paying now. I did not enroll but have received numerous e-mails reminding me to enroll. So far, I'm hoping I can keep my premium at the 16 percent increase for 2014. Otherwise, I will not have health insurance. I can't afford the new premium.

Kevin, from Roswell, GA, wrote:

We are a family of four. We have and want a catastrophic-only high deductible health plan with low monthly premiums and full coverage once we hit our deductible. We like our plan.

This is very typical of a lot of families who were promised by the President, if you like your plan, you can keep it.

We were paying \$500 a month until July of this year. I had bladder cancer in November of 2012 which was successfully removed and I require no follow up treatment, just biannual checkups, so I expected an increase in my premium this year. In fact, our premium did go up to \$560 a month in July. On November 1, I got the letter telling us our premium was now going to \$902 a month, a 60 percent increase. After three separate calls, I got the



information that the \$902 a month change was "Option B," which is an ObamaCare-compliant plan which covers abortion, birth control and maternity care. Since we could not have children, we adopted two kids, so that coverage is 100 percent completely unnecessary for us. "Option A" we came to find out a few weeks later, was the option to keep our plan with an increase to \$617 a month. This plan will be canceled on December 31, 2014, at which point we will be forced to get an ObamaCare-compliant plan costing much more and covering things we will never, ever need.

Now, I am sure the Senator from Mississippi has received dozens and dozens of these letters, just as we have in my office. Knowing the State of Mississippi has a lot of rural areas, as my State does—in fact, I live in a rural area—there is a huge discrepancy created by ObamaCare between insurance premiums in rural America versus insurance premiums in more urban areas. Many of these premiums and deductibles are so high that it defeats the purpose of having health insurance.

This really does hit close to home for me because I truly live in a rural part of our State. In two of the regions in Southwest Georgia designated by ObamaCare, there is only one insurer—one insurance company—that is offering coverage, and the premiums in that corner of our State are much higher than in the rest of our State. It is the poorest part of our State.

In region one, which includes Albany, GA, the least expensive silver plan for a 21-year-old healthy Georgian is \$360 a month. That is the highest rate in the State. In region 15, which is also in that part of our State, the same plan is \$330 a month.

You have to remember these are people who are paying zero today because they aren't covered. They are either going to have to pay a fine or they are going to have to take that coverage.

In metro Atlanta the cheapest silver plan for a 21-year-old is \$179.20 a month, matching the rate in regions in northeast as well as northwest Georgia, which are more populated. That is half the rate of an individual in southwest Georgia where the average median income is the lowest of any part of our state.

So needless to say, households in rural southwest Georgia often do not have the same income as those in the northwest and northeast part of the State, yet they are being stuck with the highest premiums.

I could go on and on about these anecdotes and about the serious economic consequences ObamaCare is going to cause for individuals in my State, but I want to turn it back over to the Senator from Mississippi for some additional comments.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. WICKER. Mr. President, indeed, this does hit rural America much harder, but it hits all Americans hard.

I would ask unanimous consent if the Senator from Georgia and I may speak as if in a colloquy.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WICKER. I didn't hear any debate during 2009, in the extensive hours I stood on the floor and listened to the other side propose this, explaining that in situations as in Georgia, folks in the metropolitan area would pay half the premium that folks down in rural southwest Georgia would pay. That was never something the majority party, in proposing this so-called affordable act, said: Now, we are going to have to live with this, we just want you to know that.

This is a total surprise, and one of the myriad unintended consequences of this unfortunate law. Did my colleague hear any warning about that to the American people?

Mr. CHAMBLISS. The Senator is exactly right. Obviously, we both spent an awful lot of time on the floor of the Senate debating this. As we talked about, we were here voting on Christmas Eve of 2009 against this bill when it passed with 60 Democratic votes. No Republican in the Senate voted for the bill. No Republican in the House of Representatives voted for the bill. It passed with all Democratic votes.

If the Senator will recall that famous quote by the then-Speaker of the House, Speaker NANCY PELOSI, she said: What we have to do is pass this bill and then we will figure out what is in it.

Well, guess what. What we are talking about here is just one of the myriad of consequences the American people are now finding out is in that bill, and they have every right in the world to chastise everybody who voted for that bill who didn't read it, because these are the real out-of-pocket consequences to hard-working, taxpaying Americans that were never talked about on the floor of this Senate or the floor of the House.

Mr. WICKER. My friend and colleague has very effectively gone chapter and verse into what this law is doing to families in Georgia, to small businesses in Georgia, to potential job creators in Georgia and all across the United States of America. But it is not just families and small businesses, it is also local governments.

The Senator from Georgia and I came here after the 1994 elections on a promise, among other things, that we would fight against unfunded mandates on local governments. What we are finding out about ObamaCare is that it is absolutely an unfunded mandate on, for example, small towns and small counties that make up the bulk of the population in my State of Mississippi.

Let me just give a couple of examples of what it is doing to municipal governments. A city employee in Batesville, MS, tells me he recently attended a meeting of city workers and their health care provider. They were told their premiums will rise over 9 percent because of the President's health care law. This will be an increased cost of \$55,000 to \$60,000 that the city will have

to cover to provide health care coverage for their employees.

Presumably, they do not have a printing press in the back of city hall, so they are going to have to put an extra tax on the people of Batesville, MS, to cover the additional unfunded mandate the Affordable Care Act puts on the city of Batesville.

I could also mention, and will also mention, at the other end of the State on the gulf coast the city of Ocean Springs, MS, reported it will see a premium increase for their little budget of \$47,000 to provide health care under the new improved ObamaCare. This is a 13 percent increase because of the President's health care law. The city currently covers 100 percent of the employee premiums. The mayor of Ocean Springs, who I know happens to be a Democrat, said:

We're going to have to find \$47,000 from somewhere.

Presumably, it will come from the taxpayers of Ocean Springs, MS, and other small towns and rural counties around the State of Mississippi.

We are all human. I have made many mistakes during my life, and some of the mistakes I have made have been in my capacity as a legislator. I served in the State senate for 7 years. I have been in the U.S. House and Senate for some 19, along with my good friend from Georgia. I would hope that when I have seen mistakes that I have made legislatively I have been willing to go back and revisit those decisions and say: We are all human. We didn't get it right this time, and we ought to fix it.

That is one of the real disturbing things to me about this ObamaCare law. We see that the rollout was disastrous. We see that the effect on towns, counties, families and businesses is disastrous, and at the end of the day we are still going to have over 30 million Americans uninsured—the same amount we were targeting for coverage, supposedly, with the passage of ObamaCare. I would hope colleagues from both parties at this point would see where this has led us and agree there is a reason Congress meets every year. We can alleviate the problems that have arisen. We can correct the mistakes that have been made.

I appreciate people such as our colleague from Montana, Senator MAX BAUCUS, who at least said the law's implementation, he thought, was going to be a huge train wreck, noting that small businesses have no idea what to do, what to expect. I appreciate that sort of candor from one of the architects of the act.

It would seem to me, that being the case, it is incumbent on people who feel that way to say that we need to revisit this. We need to pull this law out root and branch and replace it with something that cuts the cost of insurance, that slows the growth rate of health care expenditures and uses market forces and competition, which we use in every aspect of our society except for health insurance.

I appreciate our colleague from West Virginia, Senator JAY ROCKEFELLER. He is retiring at the end of this Congress, but he said the health care law was beyond comprehension.

I think we would get over 60 percent of Americans agreeing with that. The law is beyond comprehension and the most complex piece of legislation ever passed by the Congress.

I appreciate that sort of candor as compared to the position that, as far as I can tell, is still held by the majority leader, the Senator who controls the flow of legislation on the floor of the Senate and who would have to be involved in bringing a corrected bill to the floor.

Our majority leader said this earlier this year: "This legislation is working, and it will be working better once we get the Web site up." Boy, how nonprophetic that was.

And I love this quote: "ObamaCare is wonderful for America," said the majority leader of the U.S. Senate, HARRY REID of Nevada. "ObamaCare is wonderful for America. Get over it."

I would hope I would be willing, if I had made such an egregious mistake, to say we need to come back and revisit this issue—for the benefit of American families, for the benefit of small businesses that want to create jobs, for the benefit of small cities that having to increase their taxes and do without other services to cover this unfunded mandate.

So I publicly implore my colleagues at this moment to agree that this didn't work. I never thought it would work, but some people did. But it hasn't worked. I guess it is the reason we have elections every 2 years. But I would hope that, even before the 2014 elections, Republicans and Democrats could come together and say: We got this wrong. We need to fix it, and we need to do it for the right reasons. We need to do it for the future of this country and for American families.

Mr. CHAMBLISS. The Senator from Mississippi mentioned the way this came about and the comments of the majority leader that I can't believe he really believes. It is hard for me to believe he thinks this is working. He is not a fool.

I also listened to the debate, as we talked about earlier, on the floor leading up to the vote on Christmas Eve 2009. I listened to the debate last night and today by some of our colleagues. I thought our colleague from Nebraska, Senator JOHANNIS, made a very profound statement.

We are fortunate to serve, in my opinion, in the greatest legislative body in the world. The Senator and I spent a number of years in the House, and that is a great institution also. They are both unusual from a constitutional legislative standpoint. But in the Senate there are certain rights of the minority that you don't have in the House.

The American people know and understand what has happened here; that

is, 2 weeks ago the Democrats in the Senate broke the rules of the Senate to change the rules of the Senate, and they did so in a very arbitrary and almost mean-spirited way that basically ignored the arguments of the minority. The minority in the Senate has always had rights—up until this rule change a couple weeks ago.

The Senator from Nebraska said today that when we were debating on this floor during the late fall leading up to the vote in December 2009, that because the Democrats had 60 votes, they looked to the minority on our side of the aisle and they said: We don't care what you say. His direct quote was, "Sit down and shut up." And the Senator felt a very eerie feeling taking place 2 weeks ago during the debate on this floor, where the Democrats broke the rule to change the rule, and they looked on this side of the aisle and said: We don't care what the Parliamentarian says. We don't care what the rules of the Senate have been for decades and decades. We are going to change those rules, and you all can sit down and shut up.

I thought what Senator JOHANNIS said was pretty significant, and he was right on track.

I will mention one other major concern I have with this bill that I am sure my friend from Mississippi has also heard, and that has to do with the safety of personal information relative to this new health care system. ObamaCare opens the door to fraud and identity theft like we have never seen in a public program. When individuals visit the exchange and apply for health insurance coverage, they have to provide sensitive personal data, such as Social Security numbers and income and tax return information. This information is then stored in a Federal data service hub. The proper security safeguards for that Federal data hub and other components of the Web site have not been put in place. Despite repeated warnings about this, the administration insisted on moving forward.

If the rollout of healthcare.gov is an indication of what is to follow, then I agree with Americans who have serious reservations about the security of their personal information when applying for health insurance coverage through the exchanges.

The Presiding Officer and I sit on the Intelligence Committee together, and we hear during our daily briefings about cyber attacks taking place against the U.S. Federal Government, against private entities in the United States, as well as against individuals inside the United States.

I can only imagine, with all the problems we have seen with getting up and simply having this Web site of healthcare.gov running, that some 15-year-old sitting in his garage somewhere in America—or maybe Beijing or Teheran—looking to have some fun could hack into the computer system and retrieve all the personal information of any individual they wanted to,

including their Social Security number.

Mr. WICKER. Or more than have fun; engage in real mischief and real harm to American citizens.

Mr. CHAMBLISS. The Senator is exactly right. And we obviously know what that would lead to. Those hackers attacking America today are getting proprietary information as well as financial remuneration, unfortunately, in too many instances. And to open your personal information book to the Federal Government is something that rightfully, in my mind, has the American people upset, and it is a provision in this health care plan that certainly is not popular. As NANCY PELOSI said, let's pass it, and then we will read it and figure it out. But here we go again. It is another provision in there nobody knew anything about. We had no debate, as the Senator from Mississippi referred to earlier about another issue of the floor of the Senate, regarding having to provide personal information.

Mr. WICKER. If I can underscore that, there is no question that because of the Snowden matter and because of other breaches of confidentiality and security, Americans are more and more concerned about this issue.

I note that our colleague from Maryland, Senator MIKULSKI, said about ObamaCare that it is causing fear, doubt, and a crisis of confidence. And I have to feel that some of the lack of confidence the American people have is the very real concern about security.

It is no wonder that a Pew survey released this week shows that 54 percent of Americans disapprove of the health care law and only 41 percent are in favor of it. Yet my friend mentioned the former Speaker, the current minority leader in the House of Representatives, who just this year said: The implementation of this law is fabulous. Fabulous. She compared it to the Declaration of Independence guarantee of life, liberty, and the pursuit of happiness. According to the former Speaker, this is what this is all about.

I think Americans and more Members of this body are concluding that this law isn't fabulous, contrary to what the former Speaker said; that ObamaCare is not wonderful for America, contrary to what the current majority leader of the Senate said. I hope that we could even yet revisit this.

I think we only have about 5 minutes to go. If I may comment for one brief moment about the breaking of the rules to change the rules that occurred.

One would have thought that hardly any nominations were getting through. To hear our friends on the other side of the aisle justify the reason for changing years and years of precedent and for going back on an agreement we made midyear, an agreement we made back in January, and a Gang of 14 agreement made by some of the most distinguished people ever to have served in the Senate—as a matter of fact, the facts are these: Hundreds of

executive nominations on this Executive Calendar have been approved with the slightest blip by this Senate, Republicans and Democrats. Only four nominees were felt to involve such extraordinary circumstances that we were determined to prevent those individuals from taking office for very good reasons, we thought, by the use of the 60-vote rule—only four out of hundreds this year. Yet that was given as an excuse to the American people to break the rules to change the rules.

It was a sad day. It is the kind of overreach we are seeing this week, which gets us back to the matter at hand and is the kind of very unfortunate overreach that has visited so much pain and hardship on the American people in regard to their health care and their health insurance coverage.

Mr. CHAMBLISS. I will close my comments with two additional anecdotes that really strike at what Middle America is all about and what suffering and economic pain Middle America is going through right now as a result of ObamaCare.

Michael from Dunwoody, GA, wrote in and said:

I had a really great policy for \$277 a month. The premiums were paid by my Flexplan from my employer and the excess my employer paid to my flex each month kept my balance increasing. I now have about \$35,000 accrued.

My provider cancelled that plan and my Flex now offers a lesser plan. The premiums went to \$550 a month. I actually joined AMAC and used their service to find a plan from a different provider. I must now pay the premiums out of my own pocket as President Obama won't allow me to use my own money from my flex plan to pay these premiums.

#### HOW IS THIS LEGAL?

I thought it was my money; apparently it's only my money if I buy what Obamacare says I can buy. I had to choose a plan with a \$5,000 deductible to make my premiums affordable.

Lastly, Mary from Powder Springs writes:

I am an educator with the Cobb County School System. As a reactionary measure to Obamacare, the State Board of Community Health gave state employees only one company option for our health insurance this year.

My premiums were going to be \$1,800 per year higher, my deductible was going to be \$2,000 higher, and the percentage of what was covered went down. We decided to go with my husband's company plan, but wonder what will happen to that coverage next year when the employer mandate goes into effect.

Michael and Mary are two average, ordinary Americans we ought to care about in this body. Yet we are throwing them under the bus with ObamaCare.

So as we move forward over the next year, I am in hopes we can continue to engage on this because these problems are going to get more frequent and they are going to get more disastrous from a financial and a lack of coverage standpoint. There is going to be an opportunity for this body to come together to look at really changing the ObamaCare plan that passed in 2009.

Let's come together on a plan that is meaningful, that truly does provide affordable and meaningful health care coverage for all Americans.

The PRESIDING OFFICER (Mr. KING). All time has expired.

The question is, Will the Senate advise and consent to the nomination of Susan P. Watters, of Montana, to be United States District Judge for the District of Montana?

Mr. CHAMBLISS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The clerk will call the roll.

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. MENENDEZ) is necessarily absent.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from South Carolina (Mr. GRAHAM), the Senator from Oklahoma (Mr. INHOFE), and the Senator from Illinois (Mr. KIRK).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 77, nays 19, as follows:

#### [Rollcall Vote No. 268 Ex.]

##### YEAS—77

Ayotte	Franken	Murkowski
Baldwin	Gillibrand	Murphy
Baucus	Grassley	Murray
Begich	Hagan	Nelson
Bennet	Harkin	Portman
Blumenthal	Hatch	Pryor
Booker	Heinrich	Reed
Boxer	Heitkamp	Reid
Brown	Heller	Rockefeller
Burr	Hirono	Rubio
Cantwell	Isakson	Sanders
Cardin	Johnson (SD)	Schatz
Carper	Johnson (WI)	Schumer
Casey	Kaine	Shaheen
Chambliss	King	Stabenow
Coats	Klobuchar	Tester
Coburn	Landrieu	Thune
Cochran	Leahy	Toomey
Collins	Lee	Udall (CO)
Coons	Levin	Udall (NM)
Corker	Manchin	Warner
Cruz	Markey	Warren
Donnelly	McCaskill	Whitehouse
Durbin	Merkley	Wicker
Feinstein	Mikulski	Wyden
Flake	Moran	

##### NAYS—19

Alexander	Fischer	Roberts
Barrasso	Hoeven	Scott
Blunt	Johanns	Sessions
Boozman	McCain	Shelby
Cornyn	McConnell	Vitter
Crapo	Paul	
Enzi	Risch	

##### NOT VOTING—4

Graham	Kirk
Inhofe	Menendez

The nomination was confirmed.

#### CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the

Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of Deborah Lee James, of Virginia, to be Secretary of the Air Force.

Harry Reid, Sherrod Brown, Richard J. Durbin, Christopher Murphy, Robert Menendez, Christopher A. Coons, Angus S. King, Jr., Martin Heinrich, Amy Klobuchar, Dianne Feinstein, Tom Udall, Kirsten E. Gillibrand, Bernard Sanders, Barbara Boxer, Brian Schatz, Robert P. Casey, Jr., Thomas R. Carper, Benjamin L. Cardin, Michael F. Bennet.

#### QUORUM CALL

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair now directs the clerk to call the roll to ascertain the presence of a quorum.

The assistant legislative clerk proceeded to call the roll and the following Senators entered the Chamber and answered to their names:

#### [Quorum No. 11]

Alexander	Feinstein	Murkowski
Ayotte	Fischer	Murray
Baldwin	Flake	Nelson
Barrasso	Gillibrand	Paul
Baucus	Hagan	Portman
Begich	Harkin	Pryor
Blunt	Hatch	Reid
Booker	Heinrich	Risch
Boxer	Heitkamp	Roberts
Brown	Heller	Rockefeller
Burr	Hirono	Rubio
Cantwell	Hoeven	Sanders
Cardin	Isakson	Schatz
Carper	Johnson (SD)	Schumer
Casey	Johnson (WI)	Scott
Coats	King	Shaheen
Coburn	Klobuchar	Shelby
Cochran	Landrieu	Stabenow
Collins	Leahy	Tester
Coons	Lee	Thune
Corker	Levin	Toomey
Cornyn	Manchin	Udall (CO)
Crapo	Markey	Warner
Cruz	McCain	Warren
Donnelly	McCaskill	Whitehouse
Durbin	McConnell	Wicker
Enzi	Merkley	Wyden

The PRESIDING OFFICER. A quorum is present.

The question is, Is it the sense of the Senate that debate on the nomination of Deborah Lee James, of Virginia, to be Secretary of the Air Force, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from South Carolina (Mr. GRAHAM), the Senator from Oklahoma (Mr. INHOFE), and the Senator from Illinois (Mr. KIRK).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 58, nays 39, as follows:

#### [Rollcall Vote No. 269 Ex.]

##### YEAS—58

Baldwin	Casey	Heinrich
Baucus	Collins	Heitkamp
Begich	Coons	Hirono
Bennet	Donnelly	Johnson (SD)
Blumenthal	Durbin	Kaine
Booker	Feinstein	King
Boxer	Franken	Klobuchar
Brown	Gillibrand	Landrieu
Cantwell	Hagan	Leahy
Cardin	Harkin	Levin
Carper	Hatch	Manchin

Markey	Pryor	Tester
McCaskill	Reed	Udall (CO)
Menendez	Reid	Udall (NM)
Merkley	Rockefeller	Warner
Mikulski	Sanders	Warren
Murkowski	Schatz	Whitehouse
Murphy	Schumer	Wyden
Murray	Shaheen	
Nelson	Stabenow	

## NAYS—39

Alexander	Cruz	Moran
Ayotte	Enzi	Paul
Barrasso	Fischer	Portman
Blunt	Flake	Risch
Boozman	Grassley	Roberts
Burr	Heller	Rubio
Chambliss	Hoeben	Scott
Coats	Isakson	Sessions
Coburn	Johanns	Shelby
Cochran	Johnson (WI)	Thune
Corker	Lee	Toomey
Cornyn	McCain	Vitter
Crapo	McConnell	Wicker

## NOT VOTING—3

Graham	Inhofe	Kirk
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The PRESIDING OFFICER. On this vote the yeas are 58, the nays are 39. The motion is agreed to.

#### NOMINATION OF DEBORAH LEE JAMES TO BE SECRETARY OF THE AIR FORCE

The PRESIDING OFFICER. The clerk will report the nomination.

The assistant legislative clerk read the nomination of Deborah Lee James, of Virginia, to be Secretary of the Air Force.

The PRESIDING OFFICER. Pursuant to the provisions of S. Res. 15 of the 113th Congress, there will now be up to 8 hours of postcloture consideration of the nomination equally divided in the usual form.

If no one yields time, time will be equally charged.

The Senator from Alabama is recognized.

#### RULES OF THE SENATE

Mr. SESSIONS. Mr. President, we are definitely proceeding in an unusual manner at this point in time in the history of the U.S. Senate. We are moving under regular order. Nominations are being processed in regular order. Votes are being held. Debate is being shut off by the appropriate procedures. But it is unusual from what we have been doing all year and what we have been doing historically. So I guess the question is, how did we get to this point? What has happened in the Senate that has caused the difficulties we now have?

I believe it is becoming clear to our colleagues that actions that have been taking place in recent days have altered the very nature of the Senate, have eroded the collegiality that makes this body work on a daily basis, the kind of actions in which people unanimously agreed to allow things to happen different from the regular order, that allowed things to be proceeded up and go faster and move forward. It has been done on a regular basis.

But we have had a conflict, an alteration in the rules of the Senate that is so serious that it impacts the very nature of this institution and causing

great concern. We have a lot of new Members in the Senate, and they have not seen how the Senate operated just in the—what?—16, 17 years I have been here. I have seen the great change, and it is a concern to me, and it is even different from that more classical operation before I came here.

It is not healthy, it is not good, and it cannot be allowed to just happen without any discussion, without any full understanding of how the majority leader of the Senate has accrued to himself powers never before allowed to be held by the majority leader of the Senate. It has altered the very nature of the debate here and the processes that involve our constitutional responsibility.

So I believe we need to talk about it. I believe we need to understand it, and somehow we need to alter what has happened.

I remember when I came to the Senate. Senator Robert Byrd loved the Senate. Senator Robert Byrd said there are two great Senates: the Roman Senate and the U.S. Senate. He gave all of us new Members a lecture about the great heritage of which we are a part. He wrote a book on the rules of the Senate.

We have had rules for quite a number of years. The standing rule of the Senate is rule XXII. It is a clear, simple directive passed by two-thirds of the Members of the Senate duly chosen and sworn.

This is what rule XXII says. It is not confusing. It is very clear. It was adopted by two-thirds of the Senate.

It says: A motion signed by 16 Senators—that is, to negotiate something, to shut off debate, you have to have 16 Senators to file a motion—a motion signed by 16 Senators to bring to a close the debate upon any measure, motion, or other matter pending before the Senate—any measure, motion, or other matter pending before the Senate, which includes nominations—shall be decided by three-fifths of the Senators duly chosen and sworn, except on a measure or motion to amend the Senate rules, in which case the necessary affirmative vote shall be two-thirds of the Senators present and voting.

Crystal clear. The rules of the Senate are to be decided by two-thirds. To bring to a close debate upon any measure, motion or matter pending before the Senate requires three-fifths, 60 votes out of our 100. That is the rule of the Senate. That has guided us for generations. It has worked well. I am going to talk a little bit about this, and I could go into even greater detail and say that the process has been working very well.

Senators on the Republican side have treated the nominees of President Obama very well, far better than were the nominations of President Bush when he came here in 2000. When I was here in 2000, his nominees were hammered, filibustered for the first time in history, held by some of the same people who now with great outrage attack

those who have blocked and filibustered a few of the Obama nominees—just a few.

So it is really almost unbelievable to me that we are at this point of the rules process of the Senate. So how did it happen? Precisely what happened? I think the American people need to know.

Senator REID, apparently irritated that he was not able to have three judges confirmed to the District of Columbia Circuit bench, decided that he was going to change the rules. Senator SCHUMER said he was going to get those nominees confirmed one way or the other.

I am the ranking Republican on the budget committee. This country is spending money it does not have on things it does not need on an absolutely regular basis. We are wasting taxpayers' money. So the actions of the President and the Senate majority that filled three seats on the District of Columbia Court of Appeals were scrutinized.

In my opinion, I believe it is uncontested that these positions did not need to be filled. They just didn't. They do not have enough work on that court to need these judges. The average caseload per judge on the DC Circuit was 149 per judge—149. Well, what does that mean? Is that a lot or not a lot? It is not a lot. It is the lowest number by far of any circuit in America. The caseload has been steadily declining.

I have been chairman in the Judiciary Committee of the court subcommittee that deals with these issues. Senator GRASSLEY was there before I came. I have been ranking member and am now ranking member on that subcommittee. We have been watching the DC Circuit. The cases continue to decline. So with 8 judges now active on that court, they are down to 149 cases per judge. Well, is that a lot? How about my circuit, the Eleventh Circuit Court of Appeals in Atlanta, GA, covering Florida, Alabama, and Georgia? How many cases do they have per judge? Hold your hat: 740. That is how many my court handles per judge.

They say they do not need more judges. In fact, they prefer not to have the court get so large that there will not be a coherent court and be able to have consistency in the law. That has been their tradition for many years, more than 20 years. They do not want more judges. Actually, we know that the judges on the DC Circuit have said they do not need more judges. We know they took off last summer. They take off long summers, unlike any other court of appeals, from May 16 to September 16. They did not hold court from May 16 to September 16.

The next lowest circuit in America has almost twice as many cases per judge as the DC Circuit. I know that our frugal Presiding Officer, as Governor of Maine, as part of that Yankee frugality for which they are famous, he knew how to manage his money when he was Governor. It costs \$1 million a

year, we are told, to maintain a Federal judgeship. That is a lot of money. So we are adding three judges to the DC Court of Appeals who absolutely are not needed—absolutely are not needed.

This Senate refused to confirm them. We voted not to confirm these judges and blocked moving the final vote. They lacked the three-fifths vote to confirm those judges. But Senator SCHUMER said: We are going to get them done one way or the other. We do not worry about principle. We do not worry about law. We do not worry about the heritage of the Senate. We do not worry about whether we need those judges. We are going to put them in anyway.

Well, I did not pay much attention to that. I did not think he was serious about that, I have to tell you. I thought our Democratic colleagues would really understand that we have confirmed almost all of the President's nominees. Only two or three prior to that had failed out of the whole 6 years he has been in office. President Bush lost five on 1 day—good nominees—for no other reason than they had a classical view of restraint on the part of a judge.

We do not need these judges. As a matter of fact, Senator GRASSLEY and I offered and passed legislation that moved one of the DC Circuit judges to the Ninth Circuit Court of Appeals in California, a liberal circuit. But that circuit wanted more judges and appeared to need more judges to handle the caseload.

We moved one. We have legislation to move others to someplace in America where they are needed because we are going to have to fill and add some judgeships around the country because, unlike the DC Circuit, some of the areas in our country are adding cases and are needing judges and are short of judges. So good management simply says that you take them from where you do not need them and you move them to places where you do need them and you serve the interests of the American taxpayer and you protect the money they send us. We have a holy charge to protect every single dollar extracted from every American.

The former Speaker, the Democratic leader in the House, NANCY PELOSI, said: We have cut all we can cut. We cannot find any more waste in our government. There is nothing left to cut.

Well, there are places left to cut. These three judges on the DC Circuit are just one of thousands, tens of thousands of places we could save the money we are spending that we do not need to be spending, that does not help America, does not make us stronger and does not benefit the rule of law.

So how did it happen? What happened that so upset Senator REID? The majority leader is one of 100, puts his britches on one leg at a time. He does not get to dictate to this Senate. He gets to stand right there, and because his Presiding Officer is selected by Senator

REID—he is the majority leader—the Presiding Officer will always recognize him first.

It is done when Republicans have the majority. It is done when the Democrats have the majority.

He asked for recognition and received it. This is how he changed the rules of the Senate that require a three-fifths vote to shut off debate. Remember, a change of the rules of the Senate is supposed to take a two-thirds vote, 67 votes.

He said to the Presiding Officer at that point, the President pro tempore of the Senate, Senator PATRICK LEAHY, chairman of the Judiciary Committee, a man who is most experienced in all of these matters—this is what Senator REID said, and it makes the hair on the back of my neck stand up.

I talked to a reporter, an experienced, well-known reporter, the other day. He was talking about it, and he said—he didn't ask for confidentiality. He probably used my name.

He said: I didn't think he was going to do it, and when it started, everybody in the newsroom just stopped and we looked.

Wow. Because this was a big deal. This was a huge event in the history of the Senate. This is what Senator REID said and everybody needs to know how it happened.

He said, "I raise a point of order that the vote on cloture under rule XXII for all nominations other than for the Supreme Court of the United States is by majority vote."

The vote on cloture to shut off debate, he moved that under rule XXII. He said "under rule XXII" that the vote on cloture to shut off debate for all nominations "other than for the Supreme Court"—he thought of that, I suppose—"is by majority vote."

Rule XXII says, "... a motion signed by sixteen Senators, to bring to a close the debate on any measure, motion, other matter pending before the Senate ... shall be decided ... by three-fifths of the Senators duly chosen and sworn."

The majority leader of the Senate, knowing precisely what rule XXII said, stood right there and asked the chairman, the Presiding Officer, to pretend that this is not a rule of the Senate and that only a majority vote is needed. That is what he said.

What did Senator LEAHY say? The transcript shows Senator LEAHY is the President pro tempore of the Senate. He said, "Under the rules, the point of order is not sustained."

It is exactly right. Senator REID's petition that it ought to be decided by a majority vote couldn't be sustained because it is absolutely in violation of the rules of the Senate. Senator LEAHY so ruled, as he was advised, I am sure, by the Parliamentarian, also selected by Senator REID.

There is no question about this. There is absolutely no question about it.

But there is this little deal that on a matter where a Parliamentarian rules

on matters dealing with the rules of the Senate, somebody can ask and appeal the ruling of the Senate, an appeal of the whole Senate to check to decide whether the Parliamentarian is correct.

They used this corrective measure to allow the will of the Senate to interpret the rules of the Senate, to break the rules of the Senate. That is what they did, lemming like, my Democratic colleagues, surely not understanding what they did, one by one they walked up and voted or voted from their chairs in support of Senator REID.

All but two of the Democratic colleagues voted—over 50, a majority voted—to say that the rules of the Senate don't mean what they say and they will just ignore them.

The net effect was that once that was ruled, then cloture could be shut off, debate could be shut off with a simple majority. That became the rule of the Senate in a way contrary to the rules of the Senate which say "—except on a measure or motion to amend the Senate rules, in which case the necessary affirmative vote shall be two-thirds."

To change that rule of the Senate that says it takes 60 votes to shut off debate through a majority to shut off debate would take two-thirds. They just ignored that.

The reason it is so important is every other rule, tradition, and standard of the Senate is at stake. A very wise Senator, CARL LEVIN of Michigan, a longtime Democrat, chairman of the Armed Services Committee on which I sit, I have watched him work all the years I have been in the Senate and I have been very impressed. He and I don't agree on many of the substantive issues and how we approach spending, taxes, and regulations. He knows how to preside in a committee to give everybody a fair shake. He said we shouldn't do this. He pleaded with his Democratic colleagues not to vote in this fashion.

He said that if you can change a rule in this fashion, if you can alter the rules of the Senate this way, there are no rules. There is no power, no protection for the minority, other than the simple power of the majority vote. There is nothing in this Senate if we follow this precedent that can't be changed by a simple ruling of an appeal of the chair and all those rights that have always protected the minority.

That is a very dangerous thing. It was played with and talked about by the Republicans on one occasion when the entire ground rules of the Senate for confirmation of judges was altered. We found ourselves with a stunning filibuster of 10 of the first 12 nominees President Bush submitted for the court of appeals, but it was never executed. An agreement was reached to alter that.

Indeed, when this tension rose at the beginning of this year, Senator REID agreed that changes in the process gave the majority party and the President

more power to expedite nominees and gave them more power over the minority. He was able to secure that agreement in a way consistent with the heritage of the Senate. He said at that time he was not going to seek to change the rules of the Senate again.

I wish to say this should not be looked at as a little matter. It is a very big matter. I am extraordinarily troubled by it. That is part of what is happening now.

I wish to mention one more thing on a chart I have that talks about the caseload for the DC Circuit. Look at these numbers. This is the Eleventh Circuit, 720 cases per judge, not 740, as I said earlier. Look at these caseloads per judge until you get down to the DC Circuit, 149 per judge.

We didn't need to add three judges. The existing, active judges, not counting the vacancy, just 8 active judges, only have 149 cases per judge. We don't need to add one new judge.

The President was determined to try to shove that through, and that he did, and got us into all of this turmoil when the Senate didn't agree—three-fifths of the Senate not agreeing to move forward to a final vote resulting in the lack of confirmation of those judges. That is where we are.

In the Fifth Circuit in Texas, there are 488 cases per judge; the Ninth Circuit in California, 472 cases per judge. The Second Circuit, handling some of the more complex cases in America, Manhattan in New York, there are 440 cases per judge. We can see the caseload averages around the country.

The average is 384 cases per judge. That is about 2½ times the number of cases that the DC Circuit has per judge. That is why there were objections to the nominees. I said when this happened most of these nominees would probably be confirmed, because if it hadn't been for the low caseload, that there was not a question—I suggested, without going into detail, the nominees were probably qualified and it would be unlikely that they would be filibustered because of lack of qualifications, although I was probably wrong in that for at least one of them. Pillard's nomination represents a judge whose views on the law are so outside the mainstream that I don't believe, having studied that record subsequent to those remarks, she should have been confirmed on the merits.

My basic view, as I stated from the very beginning, is not a question of the merits of the nominees. The question was do we need to spend \$3 million a year for these three judges when we have other circuits that need judges and they don't need them there.

I will share with you what President Obama was looking for in his nominee.

Ms. Pillard went to Yale and Harvard. She also spent 6 years with the American Civil Liberties Union and the NAACP Legal Defense and Education Fund. She is a long-time member of the very liberal activist American Constitution Society. They believe in ac-

tivist judges and advocate for that. In recent years an activist conservative legal movement has—she has been a professor at Georgetown. She has written many controversial articles and has a record exclusively devoted, it seems to me, as a very extreme, progressive, judicial philosopher who says judges do not need to be objective and are empowered to read the meanings of the Constitution to advance an agenda. It seems to be in harmony with President Obama's openly stated views about what he looks for in judges, and that is a judge who is empathetic. He has empathy.

What does that mean, "empathy"? What it means is he wants a judge not committed to law. That is what it means.

What is empathy? Feelings, ideology, politics—that is what it sounds like to me.

The American heritage of law is based on objective criteria, the rule of law. Judges take an oath to serve under the Constitution of the United States and the laws of America. They are under them. They serve the law. They don't write the law. They don't amend the law. They don't change the law. They don't change the meaning of words in our laws or our Constitution to meet some empathetic feeling they have, some political agenda they have. And the American people are on to it. They know this is happening too much. They do not like it. They want it to stop. They do not want this kind of judge on the bench.

But many of our great law schools, many of our judicial philosophers and writers think this is all great. They think we need this kind of thing. We need to advance the law. That is what they say, and the hero to them is the one who comes up with some gimmick to reinterpret the plain meanings of our Constitution to have it say what they want it to say at a given time—to help decide a lawsuit they would like to see helped to advance an agenda.

It is really part of a post-modern approach to life, to law. Senator REID's nuclear option execution is also a post-modern power thing. It is the result, it is the end, it is the ideology, it is the revolution. Advance the cause. No rules apply.

Some may say: JEFF, you are too hard. You shouldn't say that. That is exactly what it is, I have to say, in my belief. Remember, in 2001, when President Bush got elected, there were virtually no filibusters. A few judges had problems that were held up for a while, but there were no filibusters of judges. The Democrats met in retreat—Laurence Tribe, Marcia Greenberger, Cass Sunstein were there, according to the New York Times, and they came out of the retreat with a decision, and the decision was to alter the ground rules of confirmations. They immediately accepted the two nominees President Bush had submitted that were Democrats. One of them hadn't been confirmed under President Clinton so he

renominated them. They took those two and confirmed them. They blocked ten great judges, great nominees, and this went on for over a year.

There was vote after vote after vote, and they steadfastly—Senator SCHUMER, the leader—blocked those judges from being voted on by a filibuster, because there weren't 60 votes to shut off debate to effect cloture. So this went on for an extraordinary time, and at some point the threat was that the nuclear option would be executed. So a group of Senators met and said: Look, let's not change the rules of the Senate by breaking the rules of the Senate. Let's reach an agreement. And this is what they said. They said: You shouldn't filibuster judges any more unless there are extraordinary circumstances to justify it. Normally, you should just vote yes or no for the judge. In most cases yes or no should be the vote, and serious filibusters of nominees should not occur except for extraordinary circumstances.

I thought that was OK. I didn't really think we should filibuster, period. But it seemed to be a reasonable compromise in a political body that would do the right thing for the confirmation process. We have been operating under that since 2002, I guess it was when that agreement was reached. I thought it was pretty good, actually. I was sort of proud of the way that came out. Therefore, President Obama has had very few filibusters.

But when this gang of 14 reached their agreement, and it sort of was adopted by the Senate, there were ten judges being filibustered out of the first batch of judges President Bush had nominated. What came of it was that five were confirmed and five failed. So on one day, five judges were defeated without, in my opinion, anything like a justifiable basis to defeat those judges. But that is the way it was. We agreed to it. Five judges were blocked and never got to serve; five more were confirmed.

And who orchestrated that? It was Senator REID. He complained mightily when anybody would even think about ending the right to filibuster a judge, and Senator SCHUMER was leading the filibusters.

So when the three judges that were nominated for absolutely unneeded seats on the DC circuit were blocked, you would have thought this was the first time in history anybody had ever been blocked from being a judge in this Senate. And they went and changed the rules of the Senate. It is just unbelievable to me that we are at this point.

I truly believe that President Obama's nominees were treated fairly. I believe they have been evaluated fairly, and only a very few have been blocked.

On one day Senator REID filed cloture on 17 nominations. It was totally set up, and do you know what he said? He said it was because we were filibustering these. Every time he filed cloture he said a filibuster was occurring.



None of these judges were blocked. All of these judges got confirmed. There was not even a vote on cloture for the 17. Yet when he claimed there was some unprecedented number of filibusters in the Senate, he is counting that. There has not been this situation.

So this is part of the tension we are involved in, and we remember that brooding over all of this is the Affordable Care Act—Obamacare—and how that legislation was opposed by a substantial majority of Americans, consistently 2 to 1. Virtually 2 to 1 consistently the American people rejected Obamacare. They told this Congress not to pass it. We did everything we could on the Republican side to keep it from passing. We pleaded with our colleagues not to do this.

But, oh no, they had to pass it. President Obama wanted it, and they were going to pass it. We would find out later what was in it. That was literally the gist of what happened.

Senator Scott Brown from Massachusetts—liberal Massachusetts, the home of Ted Kennedy, who believed in government's involvement in health care—was elected on a promise in Massachusetts to be the vote to kill it. There was a vacancy. Senator Kennedy's death had created this vacancy, and Senator Brown campaigned to kill and be the vote that would deny the Democrats the 60th vote, in essence.

So what did they do? They used the reconciliation budget process to pass this monumental policy change in America in a way that kept Scott Brown—and the American people, through the electoral process—from ending this piece of legislation that put us in the position we are in today, where you don't get to keep your doctor, you don't get to keep your health care, where deductibles are going through the roof, where the price of insurance is going up, where people are not being hired, where two-thirds of the people who get a job this year in America only get a part-time job, which is clearly being driven by business interests in trying to avoid being caught up in the obligations of the Affordable Care Act. But the Democrats insisted.

Senator REID has used every parliamentary maneuver possible to block any votes that would actually fix this bill or alter it in any way.

So I just have to say we are at a point where we have to wonder whether democracy is happening in the Senate.

So we go back home. People get elected to the Senate. They campaign, and they say they want to go to Washington and change Obamacare. Have we had a single vote this year to change Obamacare? No, because Senator REID knows how to fill the tree and block any votes and keep it from happening. We are not voting on it.

The House has repeatedly passed all kinds of legislation and sent it to the Senate, supposedly to cause us to respond to it, to review the legislation, to have votes, offer amendments and

see what kind of response we would have to fixing the problems with Obamacare. But what happens? Senator REID obstructs that process. He does not allow these votes to occur. They might as well have thrown their legislation down the well.

What good is it for the House to send a bill to the Senate if it never gets brought up on the most important issue facing our country today—health care? We can't even have a debate about it or vote about it. Is this the great Senate that Robert Byrd referred to?

What about the Defense bill? The Defense bill is over here now. It spends over \$500 billion—about half of the discretionary spending the United States Congress spends. What are we told? We are told the Senate is too busy. We can't bring up the Defense bill and have an amendment. No more amendments. The two little amendments that were voted on in an entire week are all we are going to get. No more amendments will be accepted. We are going to pass the bill as it is or we can vote no on it.

Why? Why? Because Senator REID knows there are some very important issues involved in the Defense bill and they are controversial. People have different views about them, and some people on his side of the aisle don't want to vote on those because they have to stand up before their constituents and before America and before the world and actually cast a vote and be accountable for their tenure in the Senate.

Members on this side, such as Senator TOM COBURN, have ideas to fix the Defense Department and to save money. But Senator REID won't give him a vote on it, and he objects. Senator REID says: Senator COBURN, you are obstructing. You are one of those Republican obstructionists. You don't get a vote, Senator COBURN. I decide who votes here. I have filled the tree. I know how to fill the tree. I am the majority leader, and if you want a vote, you have to ask me, and I'm not giving you any more votes. I have had enough of you guys.

That is kind of the way it has been. It is the way it has been with the Obamacare bill and with the Defense bill. The very idea that national security is at stake and we have a \$500 billion Defense bill—now, I'm on the Armed Services Committee, and we tried to work together. We basically had an almost unanimous vote on it. Last year we had a unanimous vote on the Defense bill. But there are still matters we carry to the floor with the full understanding there will be debate and votes on those disputed issues and the whole Senate would get to vote on them. They are not being allowed to vote on those.

This is unusual, colleagues. This has never happened in the history of the Senate. There was a study that found in the last 28 years previous to Senator REID, the tactic of filling the tree to

limit debate was done 40 times. Since Senator REID has been the majority leader, he has done it 77 times. It is every time, really. He is in complete control of the amendment process in the Senate.

We had a Democratic colleague who said he thought he had to get approval of the Republican leader, Senator MCCONNELL, before he could get his amendment voted on. Why? Well, Senator REID says the Republicans filed 20 amendments. Senator REID says: You can only have three. So he starts with Senator MCCONNELL, and Senator MCCONNELL says: That is not enough, Senator REID. You can get five, but I want to approve them. I suppose Senator MCCONNELL may say: How many are you going to have? I want to know what they are before I reach an agreement with you.

So I suspect it may be true that we have Democratic Senators having to ask the minority leader of the Senate for approval to get their amendments up.

That is not the way this should operate. It has never operated that way. Our history is open and free debate, unlimited debate in which the great issues of our time can be discussed here and actually voted on. And our constituents back home, if they don't like the way we are voting, can vote us out of office and send somebody else up here. So politics is driving it. There is no other reason.

The contention is that there wasn't enough time to vote on the Defense bill, but the Defense bill was on the floor an entire week. We could have had 10 votes a day, 15 votes a day easily on the Defense bill.

Senator INHOFE, the ranking Republican on the Armed Services Committee, told Senator REID he had limited the number of amendments that Senators on our side had to 25, and those could have been done easily in a week. But what was also true, as Senator INHOFE noted, was that a lot of those votes would actually never occur because a person would realize they didn't have the votes to pass, the manager of the bill would agree to some of the amendments, or something else would happen. So it is very unlikely that many votes would have been cast. But that is what we have done in the past. We have had 2 and 3 weeks of time spent on the Defense bill, and we have had multiple amendments—30, 40, 50 amendments—and that has just ended.

So here we are, at a time when our country has a crisis on its hands, the American people are suffering from a massive takeover of health care that was rammed through this body against their will, and they still remain steadfastly opposed to it. Those of us who share those same concerns and want to change and alter this bill that is damaging to our economy, that is hammering the middle class, we can't even get votes on it because we have a leader

who has dictated how things are done here.

This has to end. It has to end. It cannot continue. I don't see how any Member of this body can go back home if they are a Democrat and say: I couldn't get up an amendment.

Why?

Well, Senator MCCONNELL wouldn't let me.

I go back home to my State, and others go back home to their States, Senator TOOMEY goes back to Pennsylvania and says: I offered all these amendments to improve ObamaCare.

His constituent says: Well, did you vote on it?

No.

Why not?

Senator REID wouldn't let me.

Where did this become part of the history of our country? Is this what we teach our children in grade school about how democracy is supposed to work? No. It has to end.

I appreciate the opportunity to share these remarks tonight. We are at a point where this Senate has to stand, reverse the trends that have been going on, and ensure that we operate in an open way. People have to vote and vote and vote so they can be held accountable to the people who sent us here. And when we make people mad, they have every right to vote us out of office. We don't have any right to come here and hide under our desks, not to expose ourselves, not to let people know how we really feel and how we have really been moving the country.

So I think the tea party rightly has concerns about that kind of thing, and I hope we can make progress to improve this situation that is essential for our country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. TOOMEY. Mr. President, I rise as we consider the nomination of Deborah Lee James as Secretary of the Air Force, and I wish to touch on some of the points that were made by the Senator from Alabama.

I wish to state how much I appreciate his leadership, especially as the ranking member of the Budget Committee, his consistent leadership and fighting for fiscal discipline and putting our country back on a sustainable fiscal path, his commitment to an open amendment process, the opportunity to have vigorous debate in the Senate so that this body can work its will, and, of course, his work on the Armed Services Committee. I appreciate all of that, and I appreciate him being here tonight.

I do think it is important we have a discussion about how we got here, a discussion about the circumstances that have led to this completely unprecedented moment.

In the entire history of the Republic, we have never found ourselves in this circumstance where a majority party has decided that they alone should have sole say in who shall be appointed

to the executive branch and who shall have the lifetime appointments to our Federal bench. I am one who believes this will very likely have very detrimental effects because when one party can ram through their choice without having to give any regard whatsoever to what the other party thinks, then what do we get? We get legislation like ObamaCare and we have extremes in the nominations that will eventually be confirmed.

Any President comes under pressure from the extremes within his or her party to put the most extreme people in positions of power, and the Senate has played a vital role in moderating that extreme, that tendency, that pressure, because it has virtually always been the case that neither party has 60 votes. Very seldom has it been the case that a party has had over 60 votes. So it has almost always been necessary that there be some broad bipartisan consensus on the people who will populate powerful posts as regulators and lifetime appointments to the bench.

That is no longer the case. There is no such check, and I fear that the consequences will be very detrimental: extremism in the regulatory agencies, volatility as we move from one administration to another and we have these swings, and probably the most disturbing of all is the real danger that the greatest source of pride Americans can have in their Federal Government, which has been an independent, nonpartisan judiciary—that very judiciary becomes a creature of the political and becomes captured by the political branches of government. That is the danger, and that is why it is important we consider how we got here and why we got here.

It is particularly extraordinary when we consider the statements of some of the leaders on the other side of the aisle, Democratic leaders who for years were passionately opposed to doing exactly what they did last month. The majority leader himself just a short time ago said:

The right to extend the debate is never more important than when one party controls Congress and the White House. In these cases, a filibuster serves as a check on power and preserves our limited government.

Senator SCHUMER, the senior Senator from New York, put it this way:

The checks and balances which have been at the core of this Republic will be evaporated by the nuclear option. The checks and balances say that if you get 51 percent of the vote, you don't get your way 100 percent of the time.

That was Senator SCHUMER and Senator REID. There are many other quotes on the record in which they vigorously opposed the notion of denying the minority any say in the confirmation process when it was discussed but never implemented some years ago. So why would they have such a 180-degree reversal? Why would their opinion and that of the vast majority of my Democratic colleagues have changed to the point where they would actually take this absolutely unprecedented step?

Senator REID gave an explanation on the day he inflicted these changes on this body. I will quote from Senator REID's explanation. He said:

There has been unbelievable, unprecedented obstruction. For the first time in the history of our Republic, Republicans have routinely used the filibuster to prevent President Obama from appointing his executive team or confirming judges.

That is what Senator REID said. So it has been about Republicans obstructing the President from appointing his executive team and confirming judges.

Well, let's consider the case of judges to start. Let's take a look at this chart. Since President Obama has been President, there are some very simple, very easily verifiable facts we can look at.

The President has sent nominees for the Senate to consider since he became President. The Senate has confirmed 215 of those nominees, but the Senate has blocked 2 of his nominees. These are verifiable facts. They are not in dispute. These are the numbers. In total, the President has sent us the names of 217 candidates for judgeships, and 215 were confirmed and are sitting judges and 2 were blocked.

There is another category of nominees; that is, the executive branch nominees—the various agencies and regulatory bodies that are subject to senatorial confirmation. The President has sent us a total of 1,494 nonjudicial executive branch nominees. The Senate has confirmed 1,492. The Senate has blocked two.

The math is not that complicated. The President has nominated and sent to the Senate for our consideration a total of 1,711 altogether, and the Senate has confirmed 1,707. The Senate has blocked four. If you do the math, that is a confirmation rate of 99.8 percent.

So of all the nominees the President has sent to this body to be confirmed, we haven't actually confirmed every one; we have only confirmed 99.8 percent of them. Of the 1,711, we have blocked 4.

I would suggest that the power of advice and consent—the Constitution says advice and consent; it doesn't just say advice. If it just said advice, then that would clearly imply that the President could ignore the advice if he chose. But it doesn't just say advice; it says advice and consent. The power to consent clearly and obviously implies that under some circumstances that consent would be withheld. If not, there is no meaning to this at all.

So I would suggest it is patently absurd to suggest that a 99.8-percent confirmation rate is a pattern of obstruction, as we have been accused of. So that can't be the real reason, obviously. Obviously, this kind of record of almost universally approving Presidential nominees can't possibly be the real reason we had this unprecedented power grab and rules change.

So what was the real purpose? What was the real motivation behind this very dramatic development? I am here

to tell you that I think it is very clear what the real motivation was. The motivation was to pack the DC Circuit Court of Appeals so that a partisan group of judges would validate an agenda that this administration and many of our friends on the other side of the aisle want to impose.

That is an outrageous thing to say in some ways. Some people might think that is quite an accusation. What would be my basis for saying something like that? It would be the fact that Senator REID and Senator SCHUMER told us that was their reason. They said so. I will get to their quote, but let me explain why this has been done.

The fact is that elections have consequences. The President of the United States was elected. The Republicans have been enormously deferential in confirming his nominees, among other things.

But in 2012 the President wasn't the only person on the ballot. The entire House of Representatives was on the ballot, and the American people chose to reelect a Republican majority in the House of Representatives. Those elections have consequences as well, and one of the consequences of that election—the set of elections that produced a Republican majority in the House and left many Republicans in the Senate—is that the more liberal aspects of the President's agenda can't pass in Congress. They are not supported by a majority of the American people. They are not supported by majorities in Congress. Things like cap and trade, card check, the war on coal, and recess appointments don't have support. I don't think they have broad support in either body, certainly not enough in the House of Representatives to pass.

So what is a President to do if he can't get his legislation passed but he nevertheless wants to pursue an agenda? Well, one way a President could choose to do this—especially one who is not interested in working with the minority party—and let's face it, ObamaCare is the clear example that this President is not interested in the input of Republicans. That was jammed through without a single Republican vote in either the House or the Senate. There was no input from Republicans. There was no consideration for what the minority party considered. There was not a broad consensus.

It is not surprising that a very short time later there is a big majority of the American people who do not support this bill because it was never designed with enough input and enough buy-in to have that broad consensus. If a President is not interested in working with the minority party and he cannot get his legislation through because there are not enough members of his party in Congress, the alternative is to try to impose it through the regulatory process, through the agencies, through the regulators, through the executive branch, which has become enormous and enormously powerful.

There is only one big hurdle for a President to try to go down this road and that hurdle is that eventually people who are the victims of an overreaching group of regulators and administrators and agency heads, they have recourse. If they think that a given regulator is acting unfairly or illegally or unconstitutionally, they can go to court and in fact people do that. Guess what court ends up hearing the appeals and making what is very typically the final decisions, as a practical matter, regarding Federal regulations. Why, it is the DC Circuit Court of Appeals. That is the way our Federal system works.

In fact, the DC Circuit Court has generally been upholding the laws. I believe the evidence is very clear that it is a capable, competent, nonpartisan group of talented judges who make decisions as they see fit. They call balls and strikes, as referees ought to. Among their decisions, for instance—I am sure I do not agree with all of them but they did block what I thought was an illegal overreach by the EPA, inconsistent with the laws regulating EPA. They did not believe the President had the right to decide when Congress was in recess and make appointments that suited him when we were not able to deny consent. That was the DC Circuit Court's decision. This, and several others, were completely unacceptable to some of my Democratic friends. It was unacceptable this independent, nonpartisan court might reach decisions that were inconsistent with the liberal agenda.

How do we know this was unacceptable? We have some quotes. The senior Senator from New York, Mr. SCHUMER, discussed this. He was speaking to a group of supporters. It is on the record. He complained that the DC Circuit overturned the EPA's ability to regulate existing coal plants. He complained the SEC cannot pass rules unless they do what is called a cost-benefit analysis. He complained they struck down the administration's illegal recess appointments to the NLRB. He told a group of supporters that Democrats "will fill up the DC Circuit one way or another."

That was the quote. It was pretty straightforward, I will give him that. It is pretty candid. We do not like the decisions that are coming out of this court so we will pack the court with people who agree with our ideology.

Senator SCHUMER was not the only one to make this case. Senator REID had this to say of the DC Circuit:

They are the ones who said the President can't have recess appointments. They have done a lot of bad things. So we are focusing very intently on the DC Circuit. We need at least one more. There are three vacancies. We need at least one more and that will switch the majority.

This is Senator REID on the DC Circuit: "We need at least one more," obviously referring to a judge. "We need at least one more and that will switch the majority." I think it is pretty clear what was going on here.

Now fast-forward to a few weeks ago. There was just one obstacle to putting the people who would agree with Senator SCHUMER and Senator REID on the DC Circuit Court and render the decisions they wanted. The obstacle was Republicans were not interested in going along with the scheme to pack the court for ideological purposes. They didn't think that was a very good idea. They thought it was probably better to have judges who were not there to try to advance a political agenda but believed their job is to apply the law as written and make sure it is consistent with the Constitution as opposed to pursuing a political agenda.

Despite the fact that Republicans had to that point confirmed 99.8 percent of all the President's nominees, that was going a little bit too far, to simply blatantly pack the DC Circuit Court, and we said no to the three nominees who were people they were intending to pack that court.

When we did, Senator REID, after publicly promising he was not going to change the rules this way just this past summer, nevertheless did exactly that. Despite the fact the Senate rules are very clear to change the rules requires a vote of 67 Senators, precisely so there would be a broad consensus behind the rules, Senator REID changed the rules with a mere 51 votes. He broke the rules so he could change the rules so the Democratic majority can now steamroll through and rubberstamp all of the President's nominees, including those necessary to pack the court so they can pursue the agenda they want to pursue. This is not my speculation. These are the quotes from the man who helped to organize this effort.

It is, frankly, very reminiscent in a lot of ways of ObamaCare: Steamroll through Congress, one party, no input from the other party, the minority party, and a complete disaster. By the way, the other big similarity is the broken promises. Senator REID clearly, unambiguously, unequivocally, unconditionally made the promise that he was not going to change the rules and then he did.

Then what have we been hearing about ObamaCare? One broken promise after another.

What I am going to do for the remainder of the time that I consume this evening is remind all of us of some of the promises that were made. Then I am just going to read a small sample of the emails that have been coming into my office from Pennsylvanians who have learned firsthand, the hard way, the painful way, just how untrue these promises were.

The first one is maybe the most famous of the promises. This is the President's repeated promise, echoed by many others, and I will quote: "If you like your health plan you can keep your health plan." I don't know how many times the President said it, but we have all seen it, we all know it. But what is particularly maddening is we also know something else. We know everybody who said this always knew this

was not true. It was not true because the design of the bill forbids people from keeping health insurance plans in many cases—not all cases but many cases—and the authors of the bill and the supporters of the bill and the people who voted for the bill knew full well that one of the purposes of the bill was to establish government-approved standards for all insurance plans.

If your plan did not meet those standards, you were going to lose your plan. So this is what some folks have written to us about this promise, that if you like your health plan you can keep your health plan. This was just 2 days ago, a gentleman from Lancaster County from Pennsylvania wrote:

As my Congressional representative, you need to know how ObamaCare is harming my life and health care.

I work for a small construction company. My cost for family health care was already over \$11,000 per year. We received notification that our policy was being cancelled since it did not comply with the requirements of the "Affordable Care Act."

Our company looked for the best rates they could find for comparable coverage which did comply. They chose a new insurance company. We just recently were given the costs for next year. My cost to cover myself and my family will be over \$17,500 per year (a 59-percent increase). Even with that, the deductibles and out of pocket maximums are higher. This is not "Affordable Care." This would eat up a major part of my income.

I attempted to log onto the healthcare.gov website several times, but always get kicked out. I do not hold up much hope that I will get any better rates, because I do not qualify for a credit.

We were already struggling to live on my take home pay. We cannot afford to have it reduced by over \$6,500. We may have to drop health coverage for my wife or kids, and pay the penalty.

I suspect this law will result in many more people losing their health care, at the expense of a few getting free or reduced healthcare.

Another from a gentleman from Cumberland County last week.

My wife Barb and I have been trying for almost three weeks to get signed up. . . . all income and health info and private information is on the unsecured Web site and the application is accepted . . . but we have not been able to get on and pick the plan or get our price. . . . so nobody has been paid. Thus our cancelled insurance ends on December 31st and we look to be out.

A BIG mistake by the folks that voted for this . . . I've had cancer a couple times, my wife has had cancer and we both see our doctors when needed. This ACA will ruin many families if we can't get on to an insurance plan.

These folks are not only losing the insurance they have, but they have not been able to get an alternative plan.

A woman from Lebanon County, Pennsylvania, last week sent me this email.

We had our healthcare discontinued, and after an appeal were able to get it reinstated, but only for this year. Currently we have a healthcare savings plan, with a deductible of \$3,000 a year. . . . In the new plan, our deductible would increase to \$12,000 . . . and our premiums would increase to \$9,000 a year. How is a middle class married family supposed to pay for that?

This is absolutely ridiculous, and this is our situation. I hope every government worker has to purchase their plan through this plan.

A gentleman from Delaware County sent me this email last week.

I am 66 and I am on Medicare. My wife, Mary Ann is 63. Her insurance company canceled her "longstanding" policy due to the requirements of the ACA. Her "new" policy costs \$350 more per month. We are on a strict budget. . . . We are the hard working middle class. Who stands for us?

A small business owner in Cumberland County, Pennsylvania, December 3, 2013:

I am a small business owner with 3 employees looking for health insurance. My old policy is being canceled and was offered a replacement policy which is 68% higher than the old policy with higher deductibles. I went through the healthcare.gov site and was quoted an individual policy for my family which is 74 percent higher, with higher deductibles.

When do I see affordable health care for my family?

I have been self-employed for 19 years and have paid for my insurance all these years myself. With deductibles I am looking at \$26,000 out of pocket for health insurance this year. Please Help!

Another promise that we heard—these were people, real people who were demonstrating how untrue was the promise that you could keep the health insurance plan that you have. But there was another promise we heard frequently and that promise was, "If you like your doctor, you will be able to keep your doctor, period." The President added that flourish at the end, "period," just to emphasize. These are the President's words: "If you like your doctor, you will be able to keep your doctor, period."

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Armed Services.

(The messages received today are printed at the end of the Senate proceedings.)

#### MESSAGES FROM THE HOUSE

At 10:33 a.m., a message from the House of Representatives, delivered by Mr. Hanrahan, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 1471. An act to authorize the Secretary of Veterans Affairs and the Secretary of the Army to reconsider decisions to inter or honor the memory of a person in a national cemetery, and for other purposes.

The message also announced that the House has passed the following bills, in

which it requests the concurrence of the Senate:

H.R. 1992. An act to amend the requirements relating to assessment of Israel's qualitative military edge over military threats, and for other purposes.

H.R. 2019. An act to eliminate taxpayer financing of political party conventions and reprogram savings to provide for a 10-year pediatric research initiative through the Common Fund administered by the National Institutes of Health, and for other purposes.

H.R. 2319. An act to clarify certain provisions of the Native American Veterans' Memorial Establishment Act of 1994.

H.R. 3212. An act to ensure compliance with the 1980 Hague Convention on the Civil Aspects of International Child Abduction by countries with which the United States enjoys reciprocal obligations, to establish procedures for the prompt return of children abducted to other countries, and for other purposes.

#### ENROLLED BILLS SIGNED

At 3:11 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 1471. An act to authorize the Secretary of Veterans Affairs and the Secretary of the Army to reconsider decisions to inter or honor the memory of a person in a national cemetery, and for other purposes.

H.R. 2871. An act to amend title 28, United States Code, to modify the composition of the southern judicial district of Mississippi to improve judicial efficiency, and for other purposes.

H.R. 2922. An act to extend the authority of the Supreme Court Police to protect court officials away from the Supreme Court grounds.

The enrolled bills were subsequently signed by the President pro tempore (Mr. LEAHY).

At 8:22 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3695. An act to provide a temporary extension of the Food, Conservation, and Energy Act of 2008 and amendments made by that Act, as previously extended and amended and with certain additional modifications and exceptions, to suspend permanent price support authorities, and for other purposes.

The message further announced that the House agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 72. Concurrent resolution providing for corrections to the enrollment of H.J. Res. 59.

The message also announced that the House recedes from its amendment to the amendment of the Senate to the joint resolution (H.J. Res. 59) making continuing appropriations for fiscal year 2014, and for other purposes, and agrees to the amendment of the Senate with an amendment, in which it requests the concurrence of the Senate.

#### MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1992. An act to amend the requirements relating to assessment of Israel's qualitative military edge over military threats, and for other purposes; to the Committee on Foreign Relations.

H.R. 3695. An act to provide a temporary extension of the Food, Conservation, and Energy Act of 2008 and amendments made by that Act, as previously extended and amended and with certain additional modifications and exceptions, to suspend permanent price support authorities, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

#### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CARPER, from the Committee on Homeland Security and Governmental Affairs, without amendment:

S. 1360. A bill to amend the Improper Payments Elimination and Recovery Improvement Act of 2012, including making changes to the Do Not Pay initiative, for improved detection, prevention, and recovery of improper payments to deceased individuals, and for other purposes (Rept. No. 113-124).

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. UDALL of New Mexico (for himself and Mr. HEINRICH):

S. 1805. A bill to designate the Organ Mountains and other public land as components of the National Wilderness Preservation System in the State of New Mexico, to establish the Organ Mountains—Desert Peaks National Monument, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BROWN (for himself and Mr. PORTMAN):

S. 1806. A bill to amend the Federal Home Loan Bank Act with respect to membership eligibility of certain institutions; to the Committee on Banking, Housing, and Urban Affairs.

By Mrs. FEINSTEIN (for herself, Mr. COBURN, Mrs. HAGAN, Ms. COLLINS, Mr. TOOMEY, Mr. FLAKE, Mr. CORKER, Mr. BURR, Mr. RISCH, and Mr. MANCHIN):

S. 1807. A bill to amend the Clean Air Act to eliminate the corn ethanol mandate for renewable fuel, and for other purposes; to the Committee on Environment and Public Works.

By Mr. LEE (for himself, Mr. VITTER, Mr. INHOFE, Mr. ROBERTS, Mr. COBURN, Mr. RUBIO, Mr. HATCH, Mr. BLUNT, Mr. WICKER, Mr. RISCH, Mr. GRAHAM, and Mr. COCHRAN):

S. 1808. A bill to prevent adverse treatment of any person on the basis of views held with respect to marriage; to the Committee on the Judiciary.

By Mr. TESTER (for himself, Mr. GRASSLEY, and Mrs. MCCASKILL):

S. 1809. A bill to amend chapter 77 of title 5, United States Code, to clarify certain due process rights of Federal employees serving in sensitive positions, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mrs. GILLIBRAND:

S. 1810. A bill to provide paid family and medical leave benefits to certain individuals, and for other purposes; to the Committee on Finance.

By Mr. ALEXANDER (for himself, Mrs. FEINSTEIN, Mrs. SHAHEEN, and Mr. BEGICH):

S. 1811. A bill to amend title 49, United States Code, to prohibit voice communications through mobile communication devices on commercial passenger flights; to the Committee on Commerce, Science, and Transportation.

By Mr. CORNYN:

S. 1812. A bill to provide emergency funding for port of entry personnel and infrastructure; to the Committee on Homeland Security and Governmental Affairs.

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. 1813. A bill to establish a program to provide guarantees for debt issued by or on behalf of State catastrophe insurance programs to assist in the financial recovery from earthquakes and earthquake-related events; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MANCHIN (for himself, Mr. ROCKEFELLER, Mr. SCHUMER, Ms. KLOBUCHAR, Mrs. MCCASKILL, and Mr. COONS):

S. 1814. A bill to encourage, enhance, and integrate Silver Alert plans throughout the United States and for other purposes; to the Committee on the Judiciary.

By Mr. BEGICH:

S. 1815. A bill to amend the Public Health Service Act to include occupational therapists as behavioral and mental health professionals for purposes of the National Health Service Corps; to the Committee on Health, Education, Labor, and Pensions.

By Ms. KLOBUCHAR (for herself, Mr. LEE, and Mr. SCHUMER):

S. 1816. A bill to amend the Trademark Act of 1946 to provide for the registration of marks consisting of a flag, coat of arms, or other insignia of the United States, or any State or local government, and for other purposes; to the Committee on the Judiciary.

By Mrs. BOXER:

S. 1817. A bill to require the Secretary to implement standards for short-term custody of individuals held in facilities of U.S. Customs and Border Protection and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. REID (for himself and Mr. HELLER):

S. 1818. A bill to ratify a water settlement agreement affecting the Pyramid Lake Paiute Tribe, and for other purposes; to the Committee on Indian Affairs.

By Mr. BEGICH:

S. 1819. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to provide eligibility for public broadcasting facilities to receive certain disaster assistance, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mrs. SHAHEEN (for herself, Mr. COBURN, and Mrs. FISCHER):

S. 1820. A bill to prohibit the use of Federal funds for the costs of official portraits of Members of Congress, heads of executive agencies, and heads of agencies and offices of the legislative branch; to the Committee on Homeland Security and Governmental Affairs.

By Ms. HIRONO (for herself and Mr. HELLER):

S. 1821. A bill to accelerate the income tax benefits for charitable cash contributions for the relief of victims of Typhoon Haiyan in the Philippines; to the Committee on Finance.

By Mr. DURBIN:

S. 1822. A bill to amend the Higher Education Act of 1965 to establish fair and consistent eligibility requirements for graduate medical schools operating outside the United

States and Canada; to the Committee on Health, Education, Labor, and Pensions.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MURPHY (for himself, Mr. JOHNSON of Wisconsin, Mrs. SHAHEEN, and Mr. DURBIN):

S. Res. 319. A resolution expressing support for the Ukrainian people in light of President Yanukovich's decision not to sign an Association Agreement with the European Union; to the Committee on Foreign Relations.

#### ADDITIONAL COSPONSORS

S. 204

At the request of Mr. PAUL, the names of the Senator from Arkansas (Mr. BOOZMAN), the Senator from Indiana (Mr. COATS) and the Senator from Texas (Mr. CRUZ) were added as cosponsors of S. 204, a bill to preserve and protect the free choice of individual employees to form, join, or assist labor organizations, or to refrain from such activities.

S. 313

At the request of Mr. CASEY, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 313, a bill to amend the Internal Revenue Code of 1986 to provide for the tax treatment of ABLE accounts established under State programs for the care of family members with disabilities, and for other purposes.

S. 411

At the request of Mr. ROCKEFELLER, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 411, a bill to amend the Internal Revenue Code of 1986 to extend and modify the railroad track maintenance credit.

S. 526

At the request of Mr. BAUCUS, the names of the Senator from Michigan (Mr. LEVIN) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 526, a bill to amend the Internal Revenue Code of 1986 to make permanent the special rule for contributions of qualified conservation contributions, and for other purposes.

S. 583

At the request of Mr. PAUL, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 583, a bill to implement equal protection under the 14th article of amendment to the Constitution for the right to life of each born and preborn human person.

S. 641

At the request of Mr. WYDEN, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 641, a bill to amend the Public Health Service Act to increase the number of permanent faculty in palliative care at accredited allopathic



and osteopathic medical schools, nursing schools, and other programs, to promote education in palliative care and hospice, and to support the development of faculty careers in academic palliative medicine.

S. 865

At the request of Mr. WHITEHOUSE, the name of the Senator from Massachusetts (Mr. MARKEY) was added as a cosponsor of S. 865, a bill to provide for the establishment of a Commission to Accelerate the End of Breast Cancer.

S. 912

At the request of Mr. MCCAIN, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 912, a bill to allow multi-channel video programming distributors to provide video programming to subscribers on an a la carte basis, and for other purposes.

S. 994

At the request of Mr. WARNER, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 994, a bill to expand the Federal Funding Accountability and Transparency Act of 2006 to increase accountability and transparency in Federal spending, and for other purposes.

S. 1005

At the request of Mr. PORTMAN, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1005, a bill to establish more efficient and effective policies and processes for departments and agencies engaged in or providing support to, international conservation.

S. 1011

At the request of Mr. JOHANNES, the names of the Senator from California (Mrs. FEINSTEIN) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. 1011, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centennial of Boys Town, and for other purposes.

S. 1046

At the request of Mr. SCHATZ, the name of the Senator from North Dakota (Ms. HEITKAMP) was added as a cosponsor of S. 1046, a bill to clarify certain provisions of the Native American Veterans' Memorial Establishment Act of 1994.

S. 1114

At the request of Mr. BROWN, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 1114, a bill to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes.

S. 1116

At the request of Mr. SCHUMER, the name of the Senator from Connecticut (Mr. BLUMENTHAL) was added as a cosponsor of S. 1116, a bill to amend the Internal Revenue Code of 1986 to equalize the exclusion from gross income of parking and transportation fringe benefits and to provide for a common cost-of-living adjustment, and for other purposes.

S. 1187

At the request of Ms. STABENOW, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 1187, a bill to prevent homeowners from being forced to pay taxes on forgiven mortgage loan debt.

S. 1406

At the request of Ms. AYOTTE, the names of the Senator from Rhode Island (Mr. REED), the Senator from California (Mrs. FEINSTEIN) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 1406, a bill to amend the Horse Protection Act to designate additional unlawful acts under the Act, strengthen penalties for violations of the Act, improve Department of Agriculture enforcement of the Act, and for other purposes.

S. 1476

At the request of Mr. REED, the names of the Senator from Massachusetts (Mr. MARKEY) and the Senator from Massachusetts (Ms. WARREN) were added as cosponsors of S. 1476, a bill to amend the Internal Revenue Code of 1986 to expand the denial of deduction for certain excessive employee remuneration, and for other purposes.

S. 1491

At the request of Ms. LANDRIEU, the name of the Senator from New Mexico (Mr. HEINRICH) was added as a cosponsor of S. 1491, a bill to amend the Energy Independence and Security Act of 2007 to improve United States-Israel energy cooperation, and for other purposes.

S. 1505

At the request of Mr. THUNE, the name of the Senator from Florida (Mr. RUBIO) was added as a cosponsor of S. 1505, a bill to amend the Toxic Substances Control Act to clarify the jurisdiction of the Environmental Protection Agency with respect to certain sporting good articles, and to exempt those articles from definition under that Act.

S. 1610

At the request of Mr. MENENDEZ, the names of the Senator from Alaska (Ms. MURKOWSKI), the Senator from Rhode Island (Mr. REED), the Senator from Connecticut (Mr. BLUMENTHAL) and the Senator from Rhode Island (Mr. WHITEHOUSE) were added as cosponsors of S. 1610, a bill to delay the implementation of certain provisions of the Biggert-Waters Flood Insurance Reform Act of 2012, and for other purposes.

S. 1614

At the request of Ms. KLOBUCHAR, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1614, a bill to require Certificates of Citizenship and other Federal documents to reflect name and date of birth determinations made by a State court and for other purposes.

S. 1652

At the request of Mr. SCHATZ, the name of the Senator from Delaware (Mr. COONS) was added as a cosponsor of S. 1652, a bill to amend the National

Energy Conservation Policy Act to provide guidance on utility energy service contracts used by Federal agencies, and for other purposes.

S. 1659

At the request of Mr. DURBIN, the names of the Senator from California (Mrs. BOXER) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 1659, a bill to amend the Higher Education Act of 1965 regarding proprietary institutions of higher education in order to protect students and taxpayers.

S. 1697

At the request of Mr. HARKIN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1697, a bill to support early learning.

S. 1728

At the request of Mr. CORNYN, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1728, a bill to amend the Uniformed and Overseas Citizens Absentee Voting Act to improve ballot accessibility to uniformed services voters and overseas voters, and for other purposes.

S. 1759

At the request of Mr. SANDERS, the name of the Senator from Maine (Mr. KING) was added as a cosponsor of S. 1759, a bill to reauthorize the teaching health center program.

S. 1761

At the request of Mr. BLUMENTHAL, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 1761, a bill to permanently extend the Protecting Tenants at Foreclosure Act of 2009 and establish a private right of action to enforce compliance with such Act.

S. 1765

At the request of Mr. CORKER, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 1765, a bill to ensure the compliance of Iran with agreements relating to Iran's nuclear program.

S. 1766

At the request of Ms. AYOTTE, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 1766, a bill to provide for the equitable distribution of Universal Service funds to rural States.

S. 1779

At the request of Mr. TOOMEY, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 1779, a bill to amend the Safe Drinking Water Act to exempt fire hydrants from the prohibition on the use of lead pipes, fittings, fixtures, solder, and flux.

S. 1797

At the request of Mr. REED, the name of the Senator from Connecticut (Mr. MURPHY) was added as a cosponsor of S. 1797, a bill to provide for the extension of certain unemployment benefits, and for other purposes.

S. 1798

At the request of Mr. WARNER, the name of the Senator from Arkansas



(Mr. PRYOR) was added as a cosponsor of S. 1798, a bill to ensure that emergency services volunteers are not counted as full-time employees under the shared responsibility requirements contained in the Patient Protection and Affordable Care Act.

S. 1802

At the request of Mr. DONNELLY, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of S. 1802, a bill to provide equal treatment for utility special entities using utility operations-related swaps, and for other purposes.

S. RES. 317

At the request of Mr. SESSIONS, the names of the Senator from Missouri (Mr. BLUNT), the Senator from Arkansas (Mr. BOOZMAN) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. Res. 317, a resolution expressing the sense of the Senate on the continuing relationship between the United States and Georgia.

AMENDMENT NO. 2384

At the request of Mr. CORNYN, the name of the Senator from Ohio (Mr. PORTMAN) was added as a cosponsor of amendment No. 2384 intended to be proposed to S. 1197, an original bill to authorize appropriations for fiscal year 2014 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. FEINSTEIN (for herself, Mr. COBURN, Mrs. HAGAN, Ms. COLLINS, Mr. TOOMEY, Mr. FLAKE, Mr. CORKER, Mr. BURR, Mr. RISCH, and Mr. MANCHIN):

S. 1807. A bill to amend the Clean Air Act to eliminate the corn ethanol mandate for renewable fuel, and for other purposes; to the Committee on Environment and Public Works.

Mrs. FEINSTEIN. Mr. President, I rise to introduce The Corn Ethanol Mandate Elimination Act of 2013, a bill cosponsored by my distinguished colleagues: Senators TOM COBURN, KAY HAGAN, SUSAN COLLINS, PATRICK TOOMEY, JEFF FLAKE, BOB CORKER, RICHARD BURR, JAMES RISCH, and JOE MANCHIN.

This legislation would eliminate the Federal corn ethanol mandate from the Renewable Fuel Standard, RFS, while leaving the requirement that oil companies purchase and use low-carbon “advanced biofuel” in place.

Let me briefly explain why this legislation is necessary.

The Renewable Fuel Standard, a statute enacted in 2007, requires oil companies to use 16.55 billion gallons of renewable fuel in 2013. This annual requirement increases to 36 billion gallons in 2022.

Every year, the law directs that an increasing portion of this mandate be

met using low-carbon “advanced biofuel” that is not derived from corn starch and lowers lifecycle greenhouse gas emissions by at least 50 percent. I strongly support this provision to lower the carbon emissions from our fuel supply.

However, 14.4 billion gallons in 2014, and 15 billion gallons each year after, of the RFS mandate established in statute is met using corn ethanol, which amounts to a corn ethanol mandate.

There are two major problems with continuing to mandate the consumption of more and more corn ethanol in the United States each year.

First and foremost, the policy has led us to divert 44 percent of the U.S. corn crop from food to fuel, about twice the rate in 2006.

As the Associated Press laid out in a recent detailed investigation, the use of corn for ethanol is artificially pushing up food and feed prices while damaging the environment. The investigation found conservation lands are disappearing.

Before Congress enacted the corn ethanol mandate, the U.S. Department of Agriculture Conservation Reserve Program grew every year for nearly a decade. But in the first year after the corn ethanol mandate, more than 2 million acres were removed. Since Obama took office, 5 million more acres have been repurposed.

The AP also found that farmers have broken ground on virgin land, which it described as “the untouched terrain that represents, from an environmental standpoint, the country’s most important asset.”

Using government satellite data, the AP estimates that 1.2 million acres of virgin land in Nebraska and the Dakotas alone have been converted to fields of corn and soybeans since 2006.

Since 2005, the AP calculates that corn farmers increased their use of nitrogen fertilizer by more than two billion pounds.

The nitrates from this fertilizer wash into our rivers and flow to the Gulf of Mexico, where they feed algae. When the algae die, the decomposition consumes oxygen, leaving behind a “dead zone.”

This year, the AP reports the dead zone covered 5,800 square miles of sea floor, about the size of Connecticut.

Using more and more corn for ethanol, in drought years as well as years with bumper crops, has had economic consequences as well as environmental effects.

Higher feed prices have cost our beef, poultry, restaurant, and dairy industries dearly.

According to recent testimony in the House of Representatives, from October 2006 to July 2013, poultry and egg producers have had to bear the burden of higher feed costs totaling over \$50 billion.

Joel Brandenberger, the President of the National Turkey Federation, estimates that the RFS cost the turkey in-

dustry \$1.9 billion in increased feed expenses last year.

According to a recent Price-Waterhouse-Coopers study, the federal mandate on corn-based ethanol substantially raised prices and costs throughout the food supply chain. If the RFS mandate were left unchanged, it would increase chain restaurant industry costs by up to \$3.2 billion a year.

But the damage has probably been greatest in California, where dairymen are drowning under a combination of low milk prices and high feed costs.

The milk producers’ group Western United Dairymen reports that more than 400 dairies have gone out of business in the past 5 years, including 105 in the past year alone.

“California’s remaining 1,500 dairies are fighting for survival,” the group said in a recent statement.

The bottom line is increased feed prices associated with corn ethanol have bent this industry to its breaking point.

But the corn ethanol mandate in the Renewable Fuel Standard also presents an additional problem.

As Corporate Average Fuel Economy, CAFE, Standards required by the Ten in Ten Fuel Economy Act drive down gasoline consumption, oil companies face a “blend wall” as the RFS mandate exceeds the limit at which ethanol can be blended into the fuel supply—determined to be 10 percent of total gasoline consumption.

This blend wall is about 13.4 billion gallons of ethanol—well below the 2014 corn ethanol statutory mandate of 14.4 billion gallons.

According to EPA: “EPA does not currently foresee a scenario in which the market could consume enough ethanol . . . to meet the volumes . . . stated in the statute.” This situation is likely to increase gasoline prices.

While EPA has proposed using a creative statutory interpretation to reduce the RFS volumes in 2014, unfortunately EPA’s proposal would reduce the advanced biofuel side of the RFS mandate by more than 41 percent, while it proposes to reduce the corn ethanol portion of the mandate by only 10 percent.

The Corn Ethanol Mandate Elimination Act would address the blend wall directly, thereby allowing EPA to continue increasing volumes of low carbon advanced biofuel.

This legislation would eliminate the corn ethanol mandate, but it’s important to point out it would by no means eliminate the corn ethanol industry. Refiners will continue to blend corn ethanol into the fuel supply in the absence of a mandate for two reasons.

First, ethanol is the preferred octane booster used to increase the efficiency of gasoline.

Second, the wholesale price of ethanol is currently 65 cents per gallon less than the wholesale price of unblended gasoline, meaning blenders lower their costs and increase profits when they add ethanol to gasoline.

The multi-billion dollar corn ethanol industry will compete directly with oil based on price without a mandate, and the economic benefits of mixing corn ethanol into gasoline would remain.

I am aware that the advanced biofuel industry is working to scale and commercialize their technologies, and their investors seek regulatory and economic certainty during this period.

I am also fundamentally committed to the vitally important public health protections provided by the Clean Air Act.

That is why I would like to make it crystal clear that this legislation is a narrow bill repealing the corn ethanol mandate. Senator COBURN and I jointly made this clear when we agreed to the following statement:

“We are opposed to a mandate on the use of corn ethanol and plan to introduce the Corn Ethanol Mandate Elimination Act to repeal this unwise policy. The bill’s language will explicitly clarify that the legislation has no effect on the low-carbon advanced biofuel provisions in the Renewable Fuel Standard, and we are both committed to opposing any amendment to the bill that would broaden its scope to amend, revise or weaken the advanced biofuel provisions or other public health protections provided by the Clean Air Act.

If provisions threatening public health were successfully added to the Corn Ethanol Mandate Elimination Act, we would no longer support the bill.

I also understand that some in the advanced biofuel industry argue that legislative changes to the corn ethanol portion of the Renewable Fuel Standard could reduce certainty for their industry.

Respectfully, I disagree. The current law is not providing this industry with the certainty it needs.

While EPA has some flexibility under the RFS statute to adjust RFS mandated volumes, most of that flexibility rests in EPA’s power to reduce the amount of “advanced biofuel” mandated under the RFS.

EPA’s ability to reduce the corn ethanol mandate under current law and current circumstances is far from clear. Its proposal to reduce the corn ethanol mandate in its recently released draft rule for 2014 will be subject to aggressive legal challenge.

EPA’s lack of discretion has led EPA to propose a rule drastically reducing volumes for advanced biofuels, including biodiesel, by 41 percent, while it proposes only a modest 10 percent reduction in corn ethanol volumes.

Unless The Corn Ethanol Mandate Elimination Act is enacted, EPA will likely carry forward its proposal to dramatically reduce “advanced biofuel” volumes in order to address the blend wall. We believe eliminating the corn ethanol mandate is a much more responsible alternative.

This legislation has strong support from the prepared food industry, dairy, beef, poultry, oil and gas, engine manu-

facturers, boaters, hunger relief organizations and environmental groups. I would like to list all the organizations that have expressed support for this bill:

ActionAid USA; American Bakers Association; American Frozen Food Institute; American Fuel & Petrochemical Manufacturers; American Meat Institute; American Sportfishing Association; Americans for Prosperity; BoatU.S.; California Dairies, Inc.; California Dairy Campaign; California Poultry Federation; Clean Air Task Force; Competitive Enterprise Institute; Dairy Producers of New Mexico; Dairy Producers of Utah; Environmental Working Group; Freedom Action; Georgia Poultry Federation; Grocery Manufacturers Association; Idaho Dairymen’s Association; Indiana State Poultry Association; International Snowmobile Manufacturers Association; Iowa Turkey Federation; Marine Retailers Association of the Americas; Michigan Allied Poultry Industries, Inc.; Milk Producers Council; Minnesota Turkey Growers Association; National Cattlemen’s Beef Association; National Chicken Council; National Council of Chain Restaurants; National Marine Manufacturers Association; National Restaurant Association; National Taxpayers Union; National Turkey Federation; Nevada State Dairy Commission; North American Meat Association; North Carolina Poultry Federation; Northwest Dairy Association; Oregon Dairy Farmers Association; Oxfam; South Carolina Poultry Federation; South East Dairy Farmers Association; Southeast Milk Inc.; Specialty Equipment Market Association; Taxpayers for Common Sense; Texas Poultry Federation; The Poultry Federation; Virginia Poultry Federation; Washington State Dairy Federation; Western United Dairymen; and the Wisconsin Poultry & Egg Industries Association.

The Corn Ethanol Mandate Elimination Act of 2013 would fix both of the problems with the current Renewable Fuel Standard.

First, it would eliminate the unnecessary pressure on corn prices and corn production, allowing the multi-billion dollar corn ethanol industry to compete directly with oil based on price, not mandates.

Second, it reduces RFS mandated volumes below the blend wall.

The bill addresses both problems while maintaining the RFS provisions that encourage the development, deployment and growth of cellulosic ethanol, algae-based fuel, green diesel, and other low carbon advanced biofuels, maintaining a market for the innovative, nascent, domestic industry that this statute was designed to build up.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1807

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

# SECTION 1. SHORT TITLE.

This Act may be cited as the “Corn Ethanol Mandate Elimination Act of 2013”.

## SEC. 2. ELIMINATION OF CORN ETHANOL MANDATE FOR RENEWABLE FUEL.

(a) REMOVAL OF TABLE.—Section 211(o)(2)(B)(i) of the Clean Air Act (42 U.S.C. 7545(o)(2)(B)(i)) is amended by striking subclause (I).

(b) CONFORMING AMENDMENTS.—Section 211(o)(2)(B) of the Clean Air Act (42 U.S.C. 7545(o)(2)(B)) is amended—

(1) in clause (i)—

(A) by redesignating subclauses (II) through (IV) as subclauses (I) through (III), respectively;

(B) in subclause (I) (as so redesignated), by striking “of the volume of renewable fuel required under subclause (I),”; and

(C) in subclauses (II) and (III) (as so redesignated), by striking “subclause (II)” each place it appears and inserting “subclause (I)”; and

(2) in clause (v), by striking “clause (i)(IV)” and inserting “clause (i)(III)”.

(c) ADMINISTRATION.—Nothing in this section or the amendments made by this section affects the volumes of advanced biofuel, cellulosic biofuel, or biomass-based diesel that are required under section 211(o) of the Clean Air Act (42 U.S.C. 7545(o)).

(d) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall promulgate such regulations as are necessary to carry out the amendments made by this section.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date that is 180 days after the date of enactment of this Act.

By Mr. MANCHIN (for himself, Mr. ROCKEFELLER, Mr. SCHUMER, Ms. KLOBUCHAR, Mrs. MCCASKILL, and Mr. COONS):

S. 1814. A bill to encourage, enhance, and integrate Silver Alert plans throughout the United States and for other purposes; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I rise today to reintroduce the Earthquake Insurance Affordability Act.

This bill will help families and communities quickly recover after major earthquakes by encouraging local investment in mitigation and insurance coverage.

You see, in California, the State with the greatest exposure to earthquake damage, only about 1 in 10 homeowners has insurance to pay for earthquake damage. Other States, including Washington, Oregon, Alaska, Tennessee, Missouri and Arkansas, also have significant earthquake risks and low rates of earthquake insurance.

Insurance coverage rates are so low that many believe it has now become a national crisis.

Because when homes aren’t structurally sound, and insurance is lacking, local earthquake recovery costs quickly become America’s costs.

The math is simple: less insurance means more Federal spending after a disaster.

For example, the August 2011 Virginia earthquake was devastating to

homeowners in and around Spotsylvania County. Most of those homeowners did not have an insurance policy that covered earthquake damage.

Mr. CANTOR, the House Majority Leader, summed it up: "Obviously the problem is most people in Virginia don't have earthquake insurance. That is going to be a hardship. If there needs to be money from the Federal Government, we'll find the money."

Congress did ultimately find that money. A Federal disaster declaration was made, and homeowners received more than \$16 million to cover uninsured losses.

But with bigger disasters come bigger uninsured losses.

Consider the costs of Hurricanes Katrina and Sandy.

The GAO estimates that the federal government provided about \$26 billion to homeowners who lacked adequate insurance in response to Hurricanes Katrina, Rita, and Wilma.

Congress provided \$16 billion housing recovery for Sandy victims.

The bottom line is this: Uninsured homeowners drive up federal disaster spending. So if we can find a way to convert uninsured homeowners into insured homeowners, we will lower federal disaster spending and save American taxpayers millions each year.

The Earthquake Insurance Affordability Act will do just that. It will make earthquake insurance more affordable and expand access to coverage. It will dedicate non-federal funding to earthquake loss-mitigation programs to make houses and communities more resilient.

At its core, this legislation would authorize a private-market debt-guarantee program. The U.S. Treasury would guarantee certain debt issued by eligible state earthquake insurance programs following a catastrophic earthquake.

The debt would be limited in amount, and pre-arranged, and the eligible State programs would be highly credit-worthy.

By definition, this legislation is designed to promote the use of private capital to finance earthquake risk. So this means that private capital, not Congressional appropriations, will support rebuilding homes and restoring communities.

The Federal guarantee will assure that qualified insurance programs can sell debt at reasonable rates, even during difficult post-disaster market conditions.

By lowering interest rates, insurance programs can spend less on interest and reinsurance, and instead invest that money on rate reductions and mitigation.

Rate reduction is the key goal; because uninsured homeowners overwhelmingly attribute their lack of insurance to the high price of these policies.

The California Earthquake Authority, the largest earthquake-insurance provider in the state, estimates the

Earthquake Insurance Affordability Act will allow them to lower premiums and direct millions of dollars into mitigating homes.

That means the bill will not only lower insurance rates, but thousands more homes would become more earthquake-resistant.

Every homeowner who benefits from this legislation is one less homeowner who will rely on Federal disaster benefits after a catastrophic earthquake—that's millions of taxpayer dollars saved.

I know some of my colleagues will be concerned about putting the full faith and credit of our Federal Government behind insurance programs that are working to pay off catastrophic damages. I shared these concerns; and that is why the bill mandates strict criteria for determining how and when an insurance program can access a Federal guarantee.

First, the program must be an independent, State-run program.

Second, the program must be not for profit. The benefits of a Federal guarantee must go to policyholders, not shareholders.

Third, and most importantly, only financially sound programs are eligible. Before any Federal guarantee is offered, the Treasury Department must carefully confirm, then certify, that the program can repay the debt it incurs.

What is more: as a condition getting approved by the Department, the program must cover all actual and expected costs of conducting these credit reviews and administering the program.

Because of these key features, initial estimates from Congressional Budget Office staff affirm that this legislation brings no budgetary impact.

An independent assessment by the RAND Corporation also found that a program such as this would likely save tens of millions of dollars during a major disaster.

The bill brings other benefits to the taxpayer as well. Under a new provision added to the bill this year, participating State insurance programs must dedicate 2 percent of their Federal guarantee toward mitigating vulnerable properties and providing earthquake-hazard education.

Again, these mitigation funds will bring real benefits to homeowners, without appropriating Federal funds.

According to the United States Geological Survey, there is a 99.7 percent chance that a magnitude 6.7 earthquake will strike California within the next 30 years.

Even more concerning—the USGS forecasts a 46 percent chance that a much more devastating magnitude 7.5 or higher earthquake will occur in California during the same period.

The question is what are we doing to prepare?

Will we stick with the status quo; a system where the Federal Government comes in after the fact and spends bil-

lions to try to clean up the mess but leaves the community just as vulnerable to the next disaster?

Or will we apply the lessons from disasters like the 1994 Northridge earthquake where we spent the equivalent of more than \$10 billion, and transition to a system where homeowners are encouraged to share the financial burden by purchasing earthquake insurance and making their homes stronger?

In the current budget environment, the choice cannot be simpler. We cannot continue to spend billions on disaster relief when reliable, cheaper options are available.

With a few simple steps, the Earthquake Insurance Affordability will create an affordable mechanism to help our country prepare for, and recover more quickly from, the major earthquakes that we all know are just around the corner. I urge my colleagues to quickly adopt this critical legislation.

By Mr. DURBIN:

S. 1822. A bill to amend the Higher Education Act of 1965 to establish fair and consistent eligibility requirements for graduate medical schools operating outside the United States and Canada; to the Committee on Health, Education, Labor, and Pensions.

Mr. DURBIN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1822

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Foreign Medical School Accountability Fairness Act of 2013".

#### SEC. 2. PURPOSE.

To establish consistent eligibility requirements for graduate medical schools operating outside of the United States and Canada in order to increase accountability and protect American students and taxpayer dollars.

#### SEC. 3. FINDINGS.

Congress finds the following:

(1) Three for-profit schools in the Caribbean receive more than two-thirds of all Federal funding under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) that goes to students enrolled at foreign graduate medical schools, despite those three schools being exempt from meeting the same eligibility requirements as the majority of graduate medical schools located outside of the United States and Canada.

(2) The National Committee on Foreign Medical Education and Accreditation and the Department of Education recommend that all foreign graduate medical schools should be required to meet the same eligibility requirements to participate in Federal funding under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) and see no rationale for excluding certain schools.

(3) The attrition rate at United States medical schools averaged 3 percent for the class beginning in 2009 while rates at for-profit Caribbean schools have reached 26 percent or higher.

(4) In 2013, residency match rates for foreign trained graduates averaged 53 percent compared to 94 percent for graduates of medical schools in the United States.

(5) On average, students at for-profit medical schools operating outside of the United States and Canada amass more student debt than those at medical schools in the United States.

#### SEC. 4. REPEAL GRANDFATHER PROVISIONS.

Section 102(a)(2) of the Higher Education Act of 1965 (20 U.S.C. 1002(a)(2)) is amended—

(1) in subparagraph (A), by striking clause (i) and inserting the following:

“(i) in the case of a graduate medical school located outside the United States—

“(I) at least 60 percent of those enrolled in, and at least 60 percent of the graduates of, the graduate medical school outside the United States were not persons described in section 484(a)(5) in the year preceding the year for which a student is seeking a loan under part D of title IV; and

“(II) at least 75 percent of the individuals who were students or graduates of the graduate medical school outside the United States or Canada (both nationals of the United States and others) taking the examinations administered by the Educational Commission for Foreign Medical Graduates received a passing score in the year preceding the year for which a student is seeking a loan under part D of title IV;” and

(2) in subparagraph (B)(iii), by adding at the end the following:

“(V) EXPIRATION OF AUTHORITY.—The authority of a graduate medical school described in subclause (I) to qualify for participation in the loan programs under part D of title IV pursuant to this clause shall expire beginning on the first July 1 following the date of enactment of the Foreign Medical School Accountability Fairness Act of 2013.”.

#### SEC. 5. LOSS OF ELIGIBILITY.

If a graduate medical school loses eligibility to participate in the loan programs under part D of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087a et seq.) due to the enactment of the amendments made by section 4, then a student enrolled at such graduate medical school on or before the date of enactment of this Act may, notwithstanding such loss of eligibility, continue to be eligible to receive a loan under such part D while attending such graduate medical school in which the student was enrolled upon the date of enactment of this Act, subject to the student continuing to meet all applicable requirements for satisfactory academic progress, until the earliest of—

(1) withdrawal by the student from the graduate medical school;

(2) completion of the program of study by the student at the graduate medical school; or

(3) the fourth June 30 after such loss of eligibility.

#### SUBMITTED RESOLUTIONS

#### SENATE RESOLUTION 319—EXPRESSING SUPPORT FOR THE UKRAINIAN PEOPLE IN LIGHT OF PRESIDENT YANUKOVYCH'S DECISION NOT TO SIGN AN ASSOCIATION AGREEMENT WITH THE EUROPEAN UNION

Mr. MURPHY (for himself, Mr. JOHN-SON of Wisconsin, Mrs. SHAHEEN, and Mr. DURBIN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 319

Whereas, according to a poll conducted in November 2013, a majority of the people of Ukraine supported signing an historic trade and political agreement with the European Union;

Whereas a closer association between Ukraine and the European Union has been supported by Ukrainian civil society, business leaders, and politicians across the political spectrum and would bring lasting political, democratic, and economic benefits to the people of Ukraine;

Whereas Ukraine successfully passed much of the legislation required to conform to European Union standards for signing an Association Agreement;

Whereas, on September 22, 2012, and November 18, 2013, the Senate unanimously passed resolutions calling for a demonstrable end to selective justice in Ukraine and expressing its belief that Ukraine's future lies with stronger ties to Europe, the United States, and others in the community of democracies;

Whereas the experience of countries such as Poland, Lithuania, Latvia, and Estonia provides a positive example of increased economic opportunity, enhanced personal freedom, and good governance, which can also be realized by Ukraine;

Whereas the Government and people of Ukraine have the sovereign right to choose their own foreign policy and economic course, and no other country has the right to determine their political and economic orientation, nor decide which alliances and trade agreements they can join;

Whereas, on November 21, 2013, President Viktor Yanukovich suspended Ukraine's preparations for signing the Association Agreement one week before a critical European Union Summit in Vilnius, Lithuania;

Whereas the abrupt reversal on the eve of the summit following Russian economic coercion and to protect the narrow interests of some officials and individuals in Ukraine prompted hundreds of thousands of Ukrainians all across the country, especially young people and students, to protest the decision and stand in support of furthering Ukraine's Euro-Atlantic integration;

Whereas international nonprofit and non-governmental organizations provide essential care to needy Ukrainians, yet face direct threats and challenges to their existence and administrative and regulatory impediments, including challenges to operating with the tax-exempt status necessary to maximize the use of funds on the ground and threats to the fabric of civil society vital to democracy in Ukraine;

Whereas, on November 30, 2013, at Independence Square in Kyiv, special division police dispersed a peaceful demonstration of students and civil society activists who were calling on President Yanukovich to sign the Association Agreement;

Whereas approximately 35 individuals were detained or arrested, and dozens were hospitalized, some with severe injuries;

Whereas, on December 9, 2013, raids were conducted on three opposition media outlets and the headquarters of one opposition party;

Whereas, on December 11, 2013, Ukrainian authorities conducted an overnight police operation in an attempt to forcefully take control of Independence Square, but were resisted by brave Ukrainians who filled the square and rebuffed the police action;

Whereas all three former Presidents of Ukraine have underscored the need to refrain from violence and the importance of engaging in a dialogue with the opposition; and

Whereas Ukraine faces an impending economic crisis that can only be solved with

long term economic reforms: Now, therefore, be it

*Resolved*, That the Senate—

(1) stands with the people of Ukraine and supports their sovereign right to chart an independent and democratic future for their country;

(2) urges leaders in the United States and the European Union to continue working together actively to support a peaceful and democratic resolution to the current crisis that moves Ukraine toward a future in the Euro-Atlantic community and a long-term solution to Ukraine's economic crisis;

(3) encourages demonstrators and members of the opposition and civil society in Ukraine to continue avoiding the use of violence and engage in a dialogue of national reconciliation;

(4) urges all political parties to refrain from hate speech or actions of an anti-Semitic or other character which further divide the Ukrainian people when they need to be united;

(5) calls on the Government of Ukraine to refrain from further use of force or acts of violence against peaceful protestors, and to respect the internationally-recognized human rights of the Ukrainian people, especially the freedoms of speech and assembly;

(6) condemns the decision by Ukrainian authorities to use violence against peaceful demonstrators on November 30, December 1, and December 11, 2013, and calls for those responsible to be swiftly brought to justice and all detained nonviolent demonstrators to be immediately released; and

(7) notes that in the event of further state violence against peaceful protestors, the President and Congress should consider whether to apply targeted sanctions, including visa bans and asset freezes, against individuals responsible for ordering or carrying out the violence.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 2544. Mr. NELSON proposed an amendment to the bill H.R. 3547, to extend Government liability, subject to appropriation, for certain third-party claims arising from commercial space launches.

SA 2545. Mr. NELSON proposed an amendment to the bill H.R. 3547, *supra*.

#### TEXT OF AMENDMENTS

**SA 2544.** Mr. NELSON proposed an amendment to the bill H.R. 3547, to extend Government liability, subject to appropriation, for certain third-party claims arising from commercial space launches; as follows:

Strike all after the enacting clause and insert the following:

#### SECTION 1. LAUNCH LIABILITY EXTENSION.

Section 50915(f) of title 51, United States Code, is amended by striking “December 31, 2013” and inserting “December 31, 2016”.

**SA 2545.** Mr. NELSON proposed an amendment to the bill H.R. 3547, to extend Government liability, subject to appropriation, for certain third-party claims arising from commercial space launches; as follows:

Amend the title so as to read: “A bill to extend Government liability, subject to appropriation, for certain third-party claims arising from commercial space launches.”.

## NOTICE OF HEARING

COMMITTEE ON HEALTH, EDUCATION, LABOR,  
AND PENSIONS

Mr. HARKIN. Mr. President, I wish to announce that the Committee on Health, Education, Labor, and Pensions will meet in executive session on Wednesday, December 18, 2013, at 10 a.m. in room 430 of the Dirksen Senate Office Building to mark-up S. 1417, Newborn Screening Saves Lives Act of 2013; S. 1719/H.R. 3527, Poison Center Network Act; and the nominations of David Weil, of Massachusetts, to serve as Administrator of the Wage and Hour Division, Department of Labor; France A. Cordova, of New Mexico, to serve as Director of the National Science Foundation; Steven Anthony, of the District of Columbia, to serve as a Member of the Railroad Retirement Board; and James H. Shelton III, of the District of Columbia, to serve as Deputy Secretary of Education; as well as any additional nominations cleared for action.

For further information regarding this meeting, please contact the Committee at (202) 224-5375.

AUTHORITY FOR COMMITTEES TO  
MEETCOMMITTEE ON BANKING, HOUSING, AND URBAN  
AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on December 12, 2013, at 10 a.m. to conduct a hearing entitled "Assisting the P5+1 Interim Nuclear Agreement with Iran: Administration Perspectives."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND  
TRANSPORTATION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on December 12, 2013, at 10:30 a.m. in room SD-50 of the Dirksen Senate Office Building.

The Committee will conduct a hearing entitled, "Forecasting Success: Achieving U.S. Weather Readiness for the Long Term."

The PRESIDING OFFICER. Without objection, it is so ordered.

## COMMITTEE ON FINANCE

Mr. REID. Mr. President, I ask unanimous consent that the Committee on

Finance be authorized to meet during the session of the Senate on December 12, 2013, at 10 a.m. in room SD-215 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR,  
AND PENSIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet during the session of the Senate on December 12, 2013, at 10 a.m. in room 430 of the Dirksen Senate Office Building to conduct a hearing entitled "Accreditation as Quality Assurance: Meeting the Needs of 21st Century Learning."

The PRESIDING OFFICER. Without objection, it is so ordered.

## SELECT COMMITTEE ON INTELLIGENCE

Mr. REID. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on December 12, 2013, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PRIVILEGES OF THE FLOOR

Mr. BARRASSO. Mr. President, I ask unanimous consent that privileges of the floor be granted to the following members of my staff, Ryan Lojo and Abbie Golden, during the pendency of today's session of the Senate, December 12, 2013.

The PRESIDING OFFICER. Without objection, it is so ordered.

## NOMINATIONS

Executive nominations received by the Senate on Thursday, December 12, 2013:

## IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. JOHN W. RAYMOND

## IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be major general*

BRIG. GEN. MARGARET C. WILMOTH

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. BENNET S. SACOLICK

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

L.T. GEN. JOSEPH ANDERSON

## IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS VICE CHIEF OF NAVAL OPERATIONS AND APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 601 AND 5035:

*To be admiral*

VICE ADM. MICHELLE J. HOWARD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be admiral*

ADM. MARK E. FERGUSON III

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be vice admiral*

REAR ADM. JOSEPH P. MULLOY

## IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

*To be colonel*

RANDOLPH S. WARDLE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY JUDGE ADVOCATE GENERAL'S CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

*To be lieutenant colonel*

NACY J. ALOUISE  
KENNETH J. BACSO  
JOSHUA A. BERGER  
STEVE D. BERLIN  
DEREK D. BROWN  
JENNIFER C.R. CLARK  
WENDY N. COX  
TOBY N. CURTO  
LARRY W. DOWNEND, JR.  
DANIEL J. EVERETT  
ANDREW D. FLOR  
MICHAEL C. FRIESS  
DAVID J. GOSCHA  
PHILLIP B. GRIFFITH  
SEAN G. GYSEN  
LAKEYSIA R. HARVIN  
PATRICIA K. HINSHAW  
NATE G. HUMMEL  
SCOTT E. HUTMACHER  
ROBERT C. INSANI  
WILLIAM J. JOHNSON  
MICHAEL D. JONES  
MATTHEW J. KEMKES  
JEREMY M. LARCHICK  
SCOTT E. LINGER  
HOWARD T. MATTHEWS, JR.  
MARVIN J. MCBURROWS  
SUSAN K. MCCONNELL  
ANDREW M. MCKEE  
MICHAEL J. MEKETEN  
ISAAC C. SPRAGG  
KATHERINE K. STICH  
JAY L. THOMAN  
CASEY Z. THOMAS  
JACQUELINE TUBBS  
MATTHEW C. VINTON  
LAJOHNNA A. WHITE  
STEFAN R. WOLFE  
CORY J. YOUNG  
D011605

## IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be captain*

MICHAEL R. SAUM

## CONFIRMATIONS

Executive nominations confirmed by  
the Senate December 12, 2013:

## THE JUDICIARY

ELIZABETH A. WOLFORD, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF NEW YORK.

LANDYA B. MCCAFFERTY, OF NEW HAMPSHIRE, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEW HAMPSHIRE.

BRIAN MORRIS, OF MONTANA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF MONTANA.

SUSAN P. WATTERS, OF MONTANA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF MONTANA.

PRIVACY AND CIVIL LIBERTIES OVERSIGHT  
BOARD

PATRICIA M. WALD, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD FOR A TERM EXPIRING JANUARY 29, 2019.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

CHAI RACHEL FELDBLUM, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR A TERM EXPIRING JULY 1, 2018.

**N O T I C E**

*Incomplete record of Senate proceedings. Today's Senate proceedings will be continued in the next issue of the Record.*



**CORRECTION**

# Daily Digest

## Senate

### Chamber Action

Senate continued in the session that began on Wednesday, December 11, 2013. See next volume of the Congressional Record.

**Routine Proceedings, pages S8607–S8778**

**Measures Introduced:** On Thursday, December 12, 2013, eighteen bills and one resolution were introduced, as follows: S. 1805–1822, and S. Res. 319.

**Page S8771**

**Session:** Senate convened at 2 p.m., on Wednesday, December 11, 2013, and continued in session. (For complete *Digest* of today's proceedings, see next volume of the Congressional Record.)

#### Measures Reported:

S. 1360, to amend the Improper Payments Elimination and Recovery Improvement Act of 2012, including making changes to the Do Not Pay initiative, for improved detection, prevention, and recovery of improper payments to deceased individuals. (S. Rept. No. 113–124)

**Page S8771**

#### Measures Passed:

**Space Launch Liability Indemnification Extension Act:** Senate passed H.R. 3547, to extend Government liability, subject to appropriation, for certain third-party claims arising from commercial space launches, after agreeing to the following amendments proposed thereto:

**Page S8751**

Nelson Amendment No. 2544, in the nature of a substitute.

**Page S8751**

Nelson Amendment No. 2545, to amend the title.

**Page S8751**

**Fallen Firefighters Assistance Tax Clarification Act—Agreement:** A unanimous-consent agreement was reached providing that if the Senate receives H.R. 3458, to treat payments by charitable organizations with respect to certain firefighters as exempt payments from the House of Representatives and the bill is identical to S. 1689, as introduced, then the bill be considered as having been read three times and passed.

**Page S8717**

**James Nomination:** Senate resumed consideration of the nomination of Deborah Lee James, of Virginia, to be Secretary of the Air Force.

**Pages S8764–70**

During consideration of this nomination today, Senate also took the following action:

By 58 yeas to 39 nays (Vote No. 269), Senate agreed to the motion to close further debate on the nomination.

**Pages S8763–64**

**Nominations Confirmed:** Senate confirmed the following nominations:

By 54 yeas to 41 nays (Vote No. EX. 258), Chai Rachel Feldblum, of the District of Columbia, to be a Member of the Equal Employment Opportunity Commission for a term expiring July 1, 2018.

**Pages S8768–S8711, S8778**

During consideration of this nomination today, Senate also took the following action:

By 57 yeas to 39 nays (Vote No. 257), Senate agreed to the motion to close further debate on the nomination.

**Page S8678**

By 70 yeas to 29 nays (Vote No. EX. 260), Elizabeth A. Wolford, of New York, to be United States District Judge for the Western District of New York.

**Pages S8711–17, S8778**

During consideration of this nomination today, Senate also took the following action:

By 55 yeas to 41 nays (Vote No. 259), Senate agreed to the motion to close further debate on the nomination.

**Page S8711**

By 79 yeas to 19 nays (Vote No. EX. 262), Landya B. McCafferty, of New Hampshire, to be United States District Judge for the District of New Hampshire.

**Pages S8717–24, S8778**

During consideration of this nomination today, Senate also took the following action:

By 58 yeas to 40 nays, 1 responding present (Vote No. 261), Senate agreed to the motion to close further debate on the nomination.

**Page S8717**

By 57 yeas to 41 nays (Vote No. EX. 264), Patricia M. Wald, of the District of Columbia, to be a Member of the Privacy and Civil Liberties Oversight Board.

**Pages S8724–50, S8778**

During consideration of this nomination today, Senate also took the following action:

By 57 yeas to 41 nays (Vote No. 263), Senate agreed to the motion to close further debate on the nomination. **Page S8724**

By 75 yeas to 20 nays (Vote No. EX. 266), Brian Morris, of Montana, to be United States District Judge for the District of Montana. **Pages S8750–57, S8778**

During consideration of this nomination today, Senate also took the following action:

By 57 yeas to 40 nays (Vote No. 265), Senate agreed to the motion to close further debate on the nomination. **Page S8750**

By 77 yeas to 19 nays (Vote No. EX. 268), Susan P. Watters, of Montana, to be United States District Judge for the District of Montana. **Pages S8763, S8778**

During consideration of this nomination today, Senate also took the following action:

By 58 yeas to 39 nays (Vote No. 267), Senate agreed to the motion to close further debate on the nomination. **Page S8757**

**Nominations Received:** Senate received the following nominations:

1 Air Force nomination in the rank of general.

3 Army nominations in the rank of general.

3 Navy nominations in the rank of admiral.

Routine lists in the Army, Navy. **Page S8777**

**Messages from the House:** **Page S8667, S8770**

**Measures Referred:** **Pages S8770–71**

**Additional Cosponsors:** **Pages S8668–69, S8771–73**

**Statements on Introduced Bills/Resolutions:**  
**Page S8669–74, S8773–76**

**Additional Statements:**

**Amendments Submitted:** **Page S8776**

**Notices of Hearings/Meetings:** **Page S8674–75, S8777**

**Authorities for Committees to Meet:**

**Pages S8675, S8777**

**Privileges of the Floor:** **Page S8777**

**Quorum Calls:** Seven quorum calls were taken today. (Total—11) **Pages S8677–78, S8711, S8717, S8724, S8750, S8757**

**Record Votes:** Thirteen record votes were taken today. (Total—269) **Pages S8678, S8711, S8716–17, S8723–24, S8750, S8756–57, S8763–64**

## *Committee Meetings*

See previous volume of the Congressional Record for Wednesday, December 11, 2013.

## *Joint Meetings*

See previous volume of the Congressional Record for Wednesday, December 11, 2013.

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## COMMITTEE MEETINGS FOR FRIDAY, DECEMBER 13, 2013

*(Committee meetings are open unless otherwise indicated)*

### Senate

*Committee on Finance:* business meeting to consider the nominations of Sarah Bloom Raskin, of Maryland, to be Deputy Secretary, and John Andrew Koskinen, of the District of Columbia, to be Commissioner of Internal Revenue, both of the Department of the Treasury, and Rhonda K. Schmidlein, of Missouri, to be a Member of the United States International Trade Commission, 11 a.m., SD–215.

*Next Meeting of the SENATE*

Friday, December 13

## Senate Chamber

**Program for Friday:** Senate program is uncertain. See next volume of the Congressional Record.

*Next Meeting of the HOUSE OF REPRESENTATIVES*

11 a.m., Monday, December 16

## House Chamber

**Program for Monday:** The House will meet in pro forma session at 11 a.m.



## Congressional Record

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